

COURT OF APPEAL RULES

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APPENDIX TO THE
COURT OF APPEAL RULES

Form 1a to Form 10d

COURT OF APPEAL RULES

PART I

TITLE AND INTERPRETATION

Title

- 1 These rules may be cited as *The Court of Appeal Rules*.

Interpretation

- 2 In these rules:

“**Act**” means *The Court of Appeal Act, 2000*;

“**application**” includes a motion;

“**court**” means the Court of Appeal;

“**court appealed from**” includes, where appropriate, a tribunal;

“**file**” means to file with the registrar and pay the prescribed fee, if any;

“**judge**” means, unless otherwise indicated, a judge of the Court of Appeal acting under section 20 of the *Act*;

“**judgment**” includes any judgment, order, decree or decision;

“**local registrar**” means a local registrar of the Court of Queen’s Bench;

“**registrar**” means the registrar of the Court of Appeal. Amend. Gaz. Nov. 16 2007.

PART II

PURPOSE AND APPLICATION OF THE RULES

Purpose of rules

3 The purpose of these rules is to provide for the orderly and expeditious administration of justice in the court.

Application of the rules

4(1) Where it is in the interests of the proper administration of justice to do so, the court or a judge may waive compliance or relieve against non-compliance with these rules and direct the procedure to be followed.

(2) Non-compliance with these rules may subject the party in default to an order for costs.

Where no provision

5 Where the statute giving a right of appeal or a right to apply to the court or to a judge does not specify the procedure to be followed, these rules apply as far as may be practicable.

PART III

INITIATING APPEALS

Notice of appeal

6 Unless otherwise provided by statute, all appeals shall be initiated by notice of appeal or cross-appeal. (Forms 1a and 1b)

Style of cause in notice

7(1) The style of cause shall set out without abbreviation of names:

- (a) the name of the appellant together with the designation “Appellant”, followed by the appellant’s status in the court appealed from;
- (b) the name of each party against whose interest the appeal is taken, together with the designation “Respondent”, followed by the respondent’s status in the court appealed from;
- (c) the name of each party against whose interest the appeal has not been taken, together with the designation “Non-party”, followed by the party’s status in the court appealed from.

(2) The status of the party in the court appealed from shall be in parentheses.

Contents of notice of appeal

8 A notice of appeal, in addition to identifying the judgment or order from which the appeal is taken, shall, in separate numbered paragraphs:

- (a) specify whether all or part of the judgment is being appealed and, if a part, which part;
- (b) identify the source of the right of appeal and the basis for the jurisdiction of the court to determine the appeal;

- (c) set forth the grounds of the appeal;
- (d) state precisely the relief sought;
- (e) provide the information required under Rule 65(1) (Address for service); and
- (f) contain a request that the appeal be set down for hearing in either Regina or Saskatoon.

PART IV

SERVING AND FILING NOTICE OF APPEAL

Serving notice of appeal

- 9(1)** The appellant shall serve the notice of appeal upon all parties against whose interest the appeal is taken.
- (2) The notice of appeal shall be served within 30 days after the date of the judgment or order being appealed from, except where otherwise provided by these rules and subject to the provisions of any statute governing the appeal.
- (3) Service shall be effected in accordance with Rule 67 (Service) or by serving the party's lawyer on record in the court appealed from.
- (4) The court or a judge may direct the notice of appeal be served on any person not a party and may make such interim orders as the court or judge considers just.

Filing notice of appeal

- 10(1)** The notice of appeal shall be filed, with proof of service, within 10 days after service upon the last of the parties to be served, and in cases where service is not required, the notice of appeal shall be filed within 30 days after the date of the judgment or order appealed from.
- (2) A notice of appeal shall not be filed after the expiration of the time period prescribed in this rule without an order of a judge.

Filing judgment or order appealed against

10.1 Where an appeal is taken against a judgment or order of the Court of Queen's Bench, a copy of the judgment or order, as taken out in the Court of Queen's Bench, shall be filed contemporaneously with the notice of appeal. New. Gaz. Nov. 16 2007.

Appeals requiring leave

11(1) Subject to any statute governing the appeal, where leave to appeal is necessary, the application for leave shall be made within 15 days after the date of the judgment or order sought to be appealed from or within such time as ordered by the court or a judge.

(2) The notice of appeal shall be served within 10 days after the date of the order granting leave to appeal.

Appeals from incidental orders made at trial or chambers

12(1) Where an order is made or a decision is given during or after a trial, and such order or decision is only incidental to the trial, the time for appealing from such order or decision shall continue for 30 days after the date of the judgment at trial, and a party appealing from the trial judgment may also include in the notice of appeal an appeal from such incidental order or decision.

(2) Where an order is made or a decision is given during or after the hearing of an application in chambers and such order or decision is only incidental to the application and does not dispose of the matter in issue therein, the time for appealing from such order or decision shall continue for a period of 15 days after the date of the judgment on the matter in issue in such application, and a party appealing from the judgment may also include in the notice of appeal an appeal from such incidental order or decision.

Amendment to notice of appeal

13 A notice of appeal or cross-appeal may be amended at any time with leave of the court or a judge.

Date of judgment

14 In this Part, “**date**” of judgment or order means:

(a) the date of filing with the registrar, local registrar or chambers clerk of the Court of Queen’s Bench, as the case may be, of the written reasons for judgment or the written fiat; or

(b) where the judgment or order has been pronounced in court or chambers with no provision for written reasons to follow, the date of the oral pronouncement.

PART V

STAY OF PROCEEDINGS

Stay

15(1) Unless otherwise ordered by the judge appealed from or by a judge, the service and filing of a notice of appeal does not stay the execution of a judgment or an order awarding *mandamus*, an injunction, alimony, or maintenance for a spouse, child or dependant adult. Unless otherwise ordered by a judge, the service and filing of a notice of appeal stays the execution of any other judgment or order pending the disposition of the appeal. (Forms 5a and 5b)

(2) Where leave to appeal from an interlocutory order is granted, the judge hearing the application may give directions as to staying proceedings.

(3) Where a writ of execution has been issued but is stayed after being issued because of an appeal, the appellant is entitled to obtain a certificate from the registrar that the execution of the writ has been stayed pending the appeal. On the deposit of the certificate with the sheriff, the execution of the writ is stayed but the execution debtor shall pay the sheriff's fees, and the amount so paid shall be allowed to the execution debtor as part of the costs of the appeal.

(4) Where the execution of a judgment or order is stayed pending an appeal, all further proceedings in the action, other than the issue of the judgment and the taxation of costs under the judgment, are stayed unless otherwise ordered. Amend. Gaz. Nov. 16 2007.

PART VI

CROSS-APPEAL

Cross-appeal

16(1) If a respondent desires to contend that the judgment appealed from should be varied, the respondent shall:

- (a) within 15 days after being served with the notice of appeal, serve a notice of cross-appeal on all parties affected; and
 - (b) within 10 days after service on all parties, file the notice of cross-appeal with proof of service.
- (2) A notice of cross-appeal shall:
- (a) identify the part of the judgment sought to be varied;
 - (b) specify the grounds for variation; and
 - (c) state precisely the relief sought.
- (3) The omission to serve a notice of cross-appeal does not necessarily preclude a party from seeking a variation of the judgment appealed from, as contemplated by Rule 58(c) (Powers of the court), but the omission may be grounds for an adjournment of the hearing of the appeal or for a special order as to costs.

PART VII

INTERVENTION

Intervention

17(1) Any person interested in any proceeding before the court may, by leave of the court, intervene in the proceeding on the terms and conditions the court may direct.

(2) Any intervenor before the court appealed from shall be served with a notice of appeal and notice of cross-appeal, if any, but shall not have the status of an intervenor on appeal unless leave to intervene is first granted by the court.

(3) An application to intervene shall be made to the court on notice to all parties and other interveners in the proceeding.

PART VIII**PERFECTING APPEAL: APPEAL BOOK AND FACTUM****A. Appeal Book****Appeal book required**

18 An appeal book is required in every appeal, unless otherwise ordered.

Agreement as to transcript of evidence

19(1) In every appeal from a judgment after hearing oral evidence, where the evidence has been recorded, each party is responsible for including in the appeal book a transcript of only those parts of the evidence that are relevant to the appeal.

(2) The parties shall make every reasonable effort to reach a written agreement as to those parts of the transcript of evidence required for the appeal, within 30 days after the last party has been served with the notice of appeal.

(3) The parties shall file any written agreement within the 30 day period mentioned in Subrule (2).

(4) If the parties fail to agree, a transcript of the whole of the evidence is deemed to be required.

(5) If the court is satisfied that the costs of the appeal have been increased unduly by the failure of a party to co-operate in reaching a written agreement, the court may take this into account when awarding costs.

Contents of transcript

20(1) The transcript shall contain:

(a) those parts of the transcript of evidence required under Rule 19 (Agreement as to transcript of evidence);

(b) the reasons for the judgment appealed from, if delivered orally and recorded; and

(c) in the case of an appeal from judgment in a jury trial, the judge's charge to the jury, together with counsel's addresses to the jury.

(2) Notwithstanding anything contained in this rule, a party may apply to a judge for an order dispensing with a transcript of evidence for the appeal.

Praecepta for transcript

21(1) Where a transcript is required, the appellant shall, within 10 days of the expiration of the time period prescribed in Rule 19 (Agreement as to transcript of evidence), file a praecipe requisitioning the transcript. (Forms 2a and 2b)

(2) Where an appellant is not represented by a lawyer, the registrar shall obtain an estimate of the cost of the transcript and shall notify the appellant of the estimate. Within 10 days of being so notified, the appellant shall deposit with the registrar the amount of the estimated cost.

(3) The registrar shall obtain one typed copy and one set of computer data files containing the transcript requisitioned in accordance with this rule.

- (4) The computer data files shall be prepared and made available to the registrar, and a party to the appeal or a party's lawyer, in such form and at such fee, as the registrar, with the approval of the court, may direct.
- (5) The registrar shall immediately notify the parties when the transcript has been received.
- (6) On receipt of the notice mentioned in Subrule (5), the appellant shall immediately pay the amount, if any, due for the transcript. If the amount of the appellant's deposit exceeds the cost of the transcript, the excess shall be returned to the appellant.

Agreement as to contents and completion of appeal book

- 22(1)** Subject to Rule 43 (Expedited appeal), where an appeal book is required, the appellant shall serve on each respondent a draft agreement as to the contents of the appeal book and the date upon which the appeal book is to be completed.
- (2) The draft agreement shall be served within the following times:
 - (a) in the case of an appeal where a praecipe has been filed under Rule 21 (Praecipe for transcript), within 10 days after receipt of the registrar's notification that the transcript of evidence has been received;
 - (b) in the case of an appeal where no praecipe is required, within 10 days after the date the last respondent was served with the notice of appeal.
 - (3) Within 10 days after the receipt of the draft agreement, each respondent shall return the draft agreement to the appellant, signed in approval, or, if not approved, accompanied by a memorandum of objections to it.
 - (4) The parties shall make every reasonable effort to exclude irrelevant material from the appeal book, avoid duplication and otherwise confine the contents to that which is necessary for the purposes of the appeal.
 - (5) If, within 30 days after the date the last respondent received the draft agreement, the parties do not agree upon the contents of the appeal book or the date upon which it is to be completed, the appellant shall apply to a judge to have the matter in dispute settled.

Contents of appeal book

- 23(1)** The appeal book shall contain the following material in the following order:
- (a) a comprehensive index, including:
 - (i) a sub-index of exhibits, whether included in the appeal book or not, listing them with a reference to the page in the appeal book where each exhibit is reproduced and the page in the transcript where each is referred to in the evidence for the first time;
 - (ii) a sub-index of witnesses listing their names, by whom each was called, and whether the evidence of the witness was given in examination-in-chief, cross-examination, re-examination or examination by the court appealed from;

- (b) the pleadings, indicating by underlining where the pleadings have been amended and by appropriate note when the amendments were made, and any particulars of the pleadings;
 - (c) the judgment or order of the court appealed from;
 - (d) the reasons for the judgment or order appealed from, if any;
 - (e) the notice of appeal;
 - (f) the notice of cross appeal, if any;
 - (g) the notice served under *The Constitutional Questions Act*, if any, and particulars of service;
 - (h) the exhibits, clearly identified by letter and number appearing on each page of the exhibit; and
 - (i) the transcript.
- (2) The top of each page of the transcript of evidence shall state the name of the witness, by whom the witness was called and whether the evidence of the witness was given in examination-in-chief, cross-examination, re-examination or examination by the court appealed from.
- (3) The pages of the appeal book shall be numbered consecutively as follows:
- (a) the index shall be numbered i, ii, and so on;
 - (b) the pages preceding the transcript, except the index, shall be numbered 1a, 2a and so on;
 - (c) the transcript shall be numbered 1, 2 and so on.

Form of appeal book

- 24(1)** The style of cause shall appear only on the cover of each volume of the appeal book.
- (2) The cover of the appeal book shall be blue.
- (3) Where the appeal book exceeds 200 pages, it shall be bound in separate volumes of 200 pages or less.
- (4) Where there is more than one volume:
- (a) the complete index shall appear at the beginning of each volume; and
 - (b) the cover of each volume shall show the consecutive volume number and the numbers of the pages contained in that volume.
- (5) Where there are three volumes or more, the spine of each volume shall show the consecutive volume number and the numbers of the pages contained in that volume.
- (6) The contents of the appeal book shall be printed, typed or photocopied, and both sides of the page should be used where practicable.
- (7) The book shall be bound in a manner satisfactory to the registrar.

Transmittal of file from court below

25 The appellant shall require the local registrar to transmit to the registrar the file in the court appealed from, including all exhibits in order that they may be received by the registrar before or at the time of the filing of the appeal book. The registrar shall not file any appeal book unless that file and those exhibits are in the registrar's custody.

Service and filing of appeal book

26 On or before the date agreed upon or fixed under Rule 22 (Agreement as to contents and completion of appeal book), the appellant shall:

- (a) serve a copy of the appeal book on each respondent and intervener; and
- (b) file proof of service in accordance with paragraph (a), together with four copies of the appeal book (being the original and three copies), or such other number as the registrar requires. Amend. Gaz. Nov. 16 2007.

B. Factum**Factum required**

27 Each of the parties to the appeal shall serve and file a factum in accordance with these rules.

Contents of factum

28(1) A factum shall, except where otherwise provided or otherwise ordered, consist of the following seven parts:

Part I. Introduction: The appellant and respondent shall each briefly summarize the context for the appeal.

Part II. Jurisdiction and Standard of Review: The appellant shall state the source of the right of appeal, the basis for the jurisdiction of the court to determine the appeal and the applicable standard of appellate review. The respondent shall state its position with respect to the same matters.

Part III. Summary of Facts: The appellant shall concisely state the facts. The respondent shall state its position taken with respect to the appellant's statement of facts and any facts it considers relevant.

Part IV. Points in Issue: The appellant shall concisely state the points in issue in the appeal. The respondent shall state its position in regard to the appellant's points which the respondent wishes to put in issue. If a respondent intends to contend that the judgment should be upheld, whether in whole or in part, for reasons not found in the judgment and not raised in the appellant's factum, it shall state that intention.

Part V. Argument: This part shall contain a statement of the argument, setting out concisely the points of law or fact to be argued and the basis for the argument, with a particular reference to the page and line of the appeal book and the authorities relied upon in support of each point. When a statute, regulation, rule, ordinance or bylaw is cited or relied upon, either as much of the statute, regulation, rule, ordinance or bylaw as may be necessary to the determination of the appeal shall be copied as an appendix to the factum or sufficient copies of the statute, regulation, rule, ordinance or bylaw may be filed.

Part VI. Relief: This part shall state the precise order the party desires the court to make, including any special disposition as to costs.

Part VII. Authorities: This part shall contain a table of authorities and statutes that the party has referred to, arranged alphabetically and citing the Supreme Court Reports where possible. Counsel citing decisions from electronic databases in factums and memorandums of authority must also provide the citation from traditional print sources. Amend. Gaz. Nov. 16 2007.

(2) Parts I to VI of a factum shall not exceed 40 pages, unless otherwise ordered.

(3) Each paragraph in Parts I to VI inclusive shall be numbered consecutively.

Form of Factum

29(1) The colour of the cover of the appellant's factum shall be buff, the respondent's green, and the intervener's red.

(2) A factum shall set out on its cover the style of cause and whether it is the factum of the appellant, respondent or intervener. Where there is more than one appellant, respondent or intervener, the name of the party shall also be given.

(3) A factum shall be printed:

(a) on one side of the paper only with the printed pages facing up on the left;

(b) in type of 12 point;

(c) with at least one and one-half line spacing, except for quotations from authorities, which shall be indented and single-spaced; and

(d) with margins of no less than 3.0 centimetres or one and one-half inches.

(4) The factum shall include an index after which all pages shall be numbered consecutively and shall be bound in the sequence outlined in Rule 28 (Contents of factum).

(5) The factum shall be signed by the lawyer responsible for its preparation.

Factum dealing with matrimonial property

30 In an appeal dealing with matrimonial property, where the distribution or valuation of the property is in issue, the factum shall contain:

- (a) a Schedule A listing, as determined at trial:
 - (i) each item of property;
 - (ii) the value of each item of property;
 - (iii) the distribution of each item of property, including exemptions; and
 - (iv) the liabilities of each party and their allocation; and
- (b) a Schedule B, specifying the precise relief the party desires the court to grant in relation to each item of property, including the valuations, exemptions, and distributions proposed by the party.

Factum dealing with foreclosure, judicial sale, bankruptcy, or insolvency

31 In an appeal dealing with a foreclosure, judicial sale, bankruptcy, or insolvency where the disposition or valuation of the property is in issue, the factum shall contain the schedules required under Rule 30 (Factum dealing with matrimonial property), adapted with any necessary modification.

Service and filing of factum

32(1) An appellant shall serve the appellant's factum at the same time and in the same manner as the appeal book is required to be served under Rule 26 (Service and filing of appeal book).

(2) An appellant shall also file the appellant's factum at the same time and in the same manner as the appeal book is required to be filed under Rule 26 (Service and filing of appeal book).

(3) A respondent or intervener shall serve and file its factum within 30 days after the receipt of the appeal book.

(4) All parties filing factums with proof of service shall give the registrar four copies (being the original and three copies), or more as the registrar may require. New. Gaz. Nov. 16 2007.

Factum in reply on Cross Appeal

33 Within 15 days after receipt of a respondent's factum dealing with a cross appeal, an appellant may serve and file a factum in reply. New. Gaz. Nov. 16 2007.

Factum in reply in other cases

33.1(1) Subject to Subrules (2), (3), and (4), an appellant may serve and file a factum in reply if the respondent's factum contends:

- (a) that the judgment appealed from should be upheld whether in whole or in part, notwithstanding error in the reasons for the decision as contended for by the appellant; and
 - (b) that the judgment should be upheld for reasons not found in the decision.
- (2) A factum in reply contemplated by Subrule (1) shall be served and filed within 15 days after receipt of the respondent's factum.

- (3) Where the registrar is of the opinion:
 - (a) that the conditions requisite to serving and filing of a factum in reply under Subrule (1) do not exist; or
 - (b) that the factum in reply tendered for filing is excessive or otherwise offensive to the purpose of Subrule (1);

the registrar may refuse to file the factum in reply or, if filed, remove it from the file and return it to the appellant.

- (4) Where any dispute arises out of the filing of a factum in reply, the registrar may refer the dispute to a judge for final resolution. New. Gaz. Nov. 16 2007.

Late filing of factum

34(1) A factum shall not be filed later than the time period prescribed by these rules without leave of a judge.

- (2) If any party fails to file a factum within the time period prescribed by these rules, any other party may apply to a judge, on notice to the party in default, for directions, including a direction that the appeal be referred to the court for disposition in light of such failure.

Factum not required from unrepresented party

35 Notwithstanding any other rule, a party not represented by a lawyer, shall not be required to serve or file a factum but shall serve and file a written argument, not to exceed 15 pages, within the time period prescribed by these rules for the serving and filing of a factum.

Book of Authorities

- 36(1)** A party may serve a book of authorities when serving that party's factum.
- (2) Where a party has served a book of authorities along with its factum, that party shall, when filing its factum, file the book of authorities in triplicate, or in such numbers as the registrar requires.
- (3) The parties may agree upon a common book of authorities and, where they so agree, they shall file the book in triplicate, or in such numbers as the registrar requires.
- (4) A book of authorities shall contain an index and shall have the cases in it individually tabbed by number or letter. Where possible, Supreme Court Reports shall be used for decisions of that court.
- (5) Where a book of authorities includes decisions from electronic databases, counsel must provide the citation from traditional print sources. New. Gaz. Nov. 16 2007.

Estimate of time for hearing

37 A party filing a factum shall give an estimate to the registrar of the length of time required to present that party's argument.

Raising additional arguments

38 A party intending to present arguments, raise points of law and cite authorities not mentioned in the factum may do so only with leave of the court.

PART IX

ENTERING AN APPEAL FOR HEARING

Entering and fixing time for hearing

39(1) The registrar shall enter an appeal for hearing when the appeal is perfected as contemplated by Part VIII (Perfecting Appeal: Appeal Book and Factum).

- (2) An appeal is perfected when the last factum required to be filed is filed.
- (3) Subject to direction by the Chief Justice, the registrar shall fix the time and place for the hearing of an appeal, and shall notify the parties.
- (4) Counsel for the appellant, or the appellant if self-represented, shall:
 - (a) serve on the respondent, if self-represented, notice of the time and place set for the hearing of the appeal; and
 - (b) file proof of service of the notice referred to in paragraph (a) at least 15 days before the appeal is set to be heard.
- (5) If Subrule (4) is not complied with:
 - (a) the hearing of the appeal may be adjourned; and
 - (b) the appellant may be ordered to pay costs. Amend. Gaz. Nov. 16 2007.

Adjournments

39.1(1) All requests to adjourn the hearing of an appeal set down for hearing in accordance with the list of scheduled appeals shall be made to the registrar immediately upon receipt of the schedule and upon three days' notice to the other party.

- (2) In the event of an objection, the registrar:
 - (a) may adjourn or decline to adjourn the hearing, subject to consulting with the court when appropriate in the opinion of the registrar, and, if adjourned, set a new date for the hearing; or
 - (b) may refer the request to a judge in chambers.
- (3) The decision of the registrar is final. New. Gaz. Nov. 16 2007.

Disposition without oral hearing

40 Where the parties agree, an appeal entered for hearing may be determined on the basis of factums.

PART X

PRE-HEARING CONFERENCE

Pre-hearing conference

41(1) A party may at any time apply to the registrar who, after consultation with the Chief Justice or the court, may direct the attendance of the parties at a pre-hearing conference.

(2) The court may on its own initiative order a pre-hearing conference.

(3) The purpose of the pre-hearing conference shall be to consider matters that might expedite the hearing and determination of the appeal.

(4) A lawyer who represents the party at the pre-hearing conference shall represent the party on the hearing of the appeal, unless the lawyer obtains leave from the court to withdraw.

PART XI

OTHER APPEALS

Appeals from divorce judgments

42(1) In an appeal from a judgment granting a divorce, the appellant shall file the notice of appeal not later than 30 days after the date of the judgment granting the divorce.

(2) Immediately upon the filing of the notice of appeal, or of an application to extend the time for appeal, the registrar shall inform the local registrar of the judicial centre in which the judgment was rendered of such filing and shall then send written confirmation to the local registrar.

Expedited appeal

43(1) In this rule, “**expedited appeal**” means one of the following appeals:

- (a) an appeal from a judgment in chambers;
- (b) an appeal from a judgment rendered after trial on an agreed statement of facts without additional oral evidence;
- (c) an appeal from a judgment relating to the custody of a child or dependent adult or to the appointment of a legal custodian or guardian of a child or dependent adult;
- (d) an appeal that the court or a judge orders to be treated as an expedited appeal because of its urgency.

(2) The regular procedure for appeals set forth in these rules applies to expedited appeals subject to the following variations:

- (a) no agreements as to the transcript of evidence or the contents of the appeal book are required;
 - (b) the appellant shall serve and file the appeal book and factum with all appropriate copies:
 - (i) within 30 days after filing the notice of appeal; or
 - (ii) in the case of an appeal requiring a transcript, within 30 days after the registrar notifies the appellant that the transcript has been received;
 - (c) the respondent shall serve and file its factum with appropriate copies within 15 days after receipt by a respondent of the appellant's appeal book and factum.
- (3) If a dispute arises over the contents of an appeal book on an expedited appeal, either party may apply to a judge to have the matter in dispute settled. Amend. Gaz. Nov. 16 2007.

Stated case

44(1) In every stated case where the applicable statute provides a time limit within which the court must rule on the case, the registrar shall, subject to direction by the Chief Justice, enter the case for hearing by the court on receipt of the case. The applicant may apply to a judge for directions as to the filing of or dispensing with a case book and factum.

(2) A stated case shall be treated in the manner of an expedited appeal.

PART XII

ABANDONMENT AND DISMISSAL FOR WANT OF PROSECUTION

Abandonment

45 A party intending to abandon an appeal, cross-appeal or application shall serve on all other parties a copy of the notice of abandonment and file the original with proof of service. The other parties shall be entitled to their taxable costs without order. (Form 8)

Dismissal for want of prosecution

46(1) An appellant shall diligently prosecute its appeal, perfecting the appeal within the time period prescribed by these rules. If an appellant fails to do so, a respondent may apply to a judge for an order requiring the appeal be perfected by a fixed date, failing which the appeal may be exposed to dismissal by the court for want of prosecution. (Forms 6 and 7)

(2) If an appeal has not been set down for hearing within one year after the notice of appeal has been filed, the registrar may, upon notice to the parties, refer the matter to the court to be dismissed as abandoned. Notice shall be given in Form 9, and the parties shall have 15 days to apply to the court to show cause why the appeal should not be dismissed.

PART XII.1

PROHIBITING VEXATIOUS PROCEEDINGS

46.1(1) On application by any party to an appeal, the court may make an order quashing an appeal on the ground:

- (a) it discloses no right of appeal;
- (b) it is frivolous or vexatious;
- (c) it is manifestly without merit; or
- (d) it is otherwise an abuse of the process of the court.

(2) Before an order is made under Subrule (1), the appellant shall be given an opportunity to be heard in accordance with Part XIV. New. Gaz. Nov. 16 2007.

46.2(1) If, on application of any person, the court or a judge is satisfied that a person has habitually, persistently, and without reasonable cause commenced frivolous or vexatious proceedings in the court, the court or a judge may make an order prohibiting the commencement of proceedings without leave of the court or a judge.

(2) Before an order is made under Subrule (1), the person against whom such an order may be made shall be given an opportunity to be heard in accordance with Part XIV. New. Gaz. Nov. 16 2007.

PART XIII

RE-HEARING

Re-hearing

47(1) There shall be no re-hearing of an appeal except by order of the court as constituted on the hearing and determination of the appeal.

(2) An application requesting a re-hearing shall be by notice of motion, served and filed before the formal judgment is issued.

(3) The notice of motion shall state the grounds for the application and shall be supported by a memorandum of argument.

(4) The notice and memorandum shall be served on all other parties that appeared upon the appeal.

(5) Within 10 days after the service of the notice and memorandum, the other parties to the appeal may serve and file a memorandum in writing in response to the motion.

(6) The formal judgment shall not be issued until an application requesting a re-hearing has been disposed of.

PART XIV

APPLICATIONS

Form of applications

48(1) Unless otherwise provided, an application to the court or a judge shall:

(a) be by notice of motion in the form provided in the rules or in accordance with Subrule (2); and

(b) have attached all material upon which the applicant relies to support the application.

(2) Where no form is provided by the rules for a particular motion, the notice shall:

(a) state the basis for the motion;

(b) set forth the grounds upon which the motion is made; and

(c) state precisely the relief sought by the applicant.

(3) An application to a judge shall be made returnable on a regular chambers date.

- (4) Regular chambers sittings are to be held:
 - (a) in Regina on the second and fourth Wednesdays of each month; and
 - (b) in Saskatoon on the first day of each regular court sitting.
- (5) If a judge or the registrar is satisfied that the matter is urgent, the judge or registrar may arrange a special chambers sitting.
- (6) Where the parties agree, an application in chambers may be determined on the basis of written submissions.
- (7) Where the parties agree or the registrar directs, an application in chambers may be made by telephone conference.

Applications for leave to appeal

- 49** Where an application is made for leave to appeal, the applicant shall:
- (a) provide the registrar with the file of the court appealed from; and
 - (b) file with the application:
 - (i) the judgment or order issued by the court appealed from;
 - (ii) the reasons for the judgment or order, if any;
 - (iii) a draft notice of appeal; and
 - (iv) a memorandum specifying the grounds for seeking leave.
(Forms 4a and 4b)

Crown Practice applications

- 50(1)** An application to the court for a prerogative writ of *mandamus*, for a writ of *certiorari* or order to quash proceedings without the actual issue of the writ, for a writ of *habeas corpus*, for prohibition, or for an information in the nature of a *quo warranto* shall be made by notice of motion, in accordance with the practice of this court.
- (2) The court may grant *ex parte* an order for the immediate issue of a writ of *habeas corpus*.
- (3) A party making an application under this rule shall file the address information required by Rule 65 (Address for service).

Queen's Bench Rules to apply

- 51** Subject to these rules, "PART TWENTY-EIGHT" and Rules 441A, 441B, 447, and 460 to 473 of *The Queen's Bench Rules* shall apply, with any necessary modification, to an application to the court or a judge.

PART XV

COSTS AND ENFORCEMENT OF JUDGMENT

Costs

52 The court may make any order as to the costs of an appeal, cross-appeal or application to the court that it considers appropriate. A judge may make any order as to costs in a proceeding before the judge.

Security for costs

53(1) The court or a judge may in special circumstances order that security be given for the costs of an appeal.

(2) Where a judge makes an order under this rule and the order is not complied with, the party in whose favour the order was made may apply to the court on 10 days notice to have the appeal dismissed.

Taxation of costs

54(1) Unless otherwise ordered:

(a) the costs of an appeal or application shall be taxed as between party and party by the registrar in accordance with the fees set out in the appropriate column of Schedule I; and

(b) Column 2 of Schedule I “A” applies to the taxation of costs where non-monetary relief is involved. Amend. Gaz. Nov. 16 2007.

(2) “PART FORTY-SIX” of *The Queen’s Bench Rules* shall apply, with any necessary modification, to a taxation of costs pursuant to this rule. For the purpose of applying that PART to the taxation of costs under these rules, any reference in that PART to “the court” shall be interpreted as a reference to a judge.

(3) The court or a judge may direct that costs be taxed as between solicitor and client.

Payment of costs by lawyer

55 The court or a judge may direct that costs be paid by a lawyer without recourse to the lawyer’s client.

Set-off

56 The court may order a set-off of costs or of judgments, whether obtained in the court or in the court appealed from.

Enforcement of judgment

57 The formal judgment of the court, together with a certificate as to the taxation of costs, shall be filed with the local registrar of the court appealed from and shall upon filing become the judgment of that court and may be enforced in like manner.

Taking out judgments and orders

57.1(1) The party responsible for taking out a judgment or order of the court, or an order of a judge of the court, shall before submitting the proposed judgment or order to the registrar serve a copy on the opposite party or parties at least three days in advance, so as to permit the other to raise with the registrar such concerns, if any, as that party may have as to the consistency of the judgment or order with the decision upon which it is based.

(2) The party responsible for taking out a judgment or order referred to in Subrule (1) shall, when submitting the proposed judgment or order to the registrar, file proof of service on the opposite party or parties.

(3) Failing proof of service, the registrar shall not settle or issue the judgment or order. New. Gaz. Nov. 16 2007.

PART XVI

POWERS OF THE COURT

Powers exercised by the court

58 Consistent with the powers vested in it, the court may:

(a) order that a judgment appealed from be set aside, in whole or in part, and order a new trial or a new trial on any question without interfering with a finding or with the decision on any other question;

(b) decline to order a new trial on the ground of misdirection, the improper admission or rejection of evidence, or because the verdict of the jury was not taken on a question the trial judge was not asked to leave to them, if, in the opinion of the court, no substantial wrong or miscarriage of justice occurred. If, in the opinion of the court, a substantial wrong or miscarriage of justice occurred but affects only part of the matter in controversy, or only one or some of the parties, the court may give judgment as to the part of the controversy not affected and direct a new trial as to the affected part or as to the other party or parties;

(c) give any judgment or make any order that ought to have been made, or make any further order the case may require notwithstanding that the notice of appeal or the notice of cross-appeal sought to reverse or vary only part of the judgment appealed from.

Fresh evidence

59(1) A party desiring to adduce fresh evidence on appeal shall, in accordance with existing law, apply to the court for leave to do so by notice of motion returnable on the date fixed for hearing the appeal.

(2) The notice of motion shall be served on all parties and filed not later than 10 days before the date fixed for hearing the appeal.

PART XVII

GENERAL RULES

Powers of registrar

60(1) The registrar may hear and determine applications under Rules 10(2) (Filing notice of appeal), 18 (Appeal book required), 22(5) (Agreement as to contents and completion of appeal book), 28(1) (Contents of factum), 34(1) (Late filing of factum), or 43(3) (Content of appeal book on expedited appeal).

(2) Any matter arising before the registrar may be referred by the registrar to a judge for a decision by the judge. Amend. Gaz. Nov. 16 2007.

Prescribing terms and conditions

61 Where these rules provide that the court, a judge, or the registrar may make an order or direction, the court, the judge or the registrar, as the case may be, may impose terms and conditions in the order or direction, as may be necessary.

Material to be legible and to comply with rules

62(1) All material to be filed shall be legible and on good quality paper measuring 28 centimetres or 11 inches by 21½ centimetres or 8½ inches.

(2) The registrar may refuse to receive for filing any material that does not substantially comply with these rules.

(3) Material that does not comply with these rules may be subject to an order of the court or a judge for costs.

Forms

63 The forms in the Appendix to these rules are to be used where applicable, with such variations as the circumstances require.

Style of cause

64(1) The style of cause shall be set out on:

- (a) the front page of a document commencing a proceeding before the court or a judge;
- (b) the cover of any other document required to be filed with the registrar.

(2) Where an intervenor has been added on appeal, the style of cause shall thereafter contain the name of the intervenor.

Address for service

65(1) In every appeal, each party shall file the following address information:

- (a) if a party is represented by a lawyer, the name, address, telephone and fax numbers of the lawyer's law firm, and the name of the lawyer in charge of the file; or
- (b) if a party is not represented by a lawyer, the full name, occupation, business or residential address, and telephone and fax numbers, if any, of the party.

(2) The address filed under Subrule (1) shall be the party's address for service in Saskatchewan where any document may be served on the party.

(3) The registrar shall not file any document unless the party seeking to file the document has filed the address information required under Subrule (1).

(4) Except where otherwise provided by these rules or otherwise ordered, a party who fails to file address information shall not be entitled to notice of any subsequent proceeding.

(5) Until the respondent files address information, the respondent's address for service is the address on record in the court appealed from.

Illusory or fictitious address information

66 If any address information is illusory or fictitious, any party may apply to the court for an order:

(a) setting aside the filing or issuing of all documents filed or issued by the party in default; and

(b) dismissing the appeal, if the party in default is an appellant, or allowing the appeal, if the party in default is a respondent.

Service

67(1) The provisions of Part Three of *The Queen's Bench Rules* apply, with any necessary modification, to service required by these Rules.

(2) For greater certainty, a document commencing proceedings in the court shall be an Acknowledgement of Service in Form 3 of *The Queen's Bench Rules*. New. Gaz. Nov. 16 2007.

Notification by registrar

68(1) Where, in these rules, the registrar is required to notify the parties, the notification shall be sent by ordinary mail.

(2) Where notification is sent by ordinary mail, it is deemed to have been received five days after the date the notice was mailed.

Receipt by fax

69(1) The registrar may accept a copy of a document transmitted by facsimile, provided that the party shall file the original document with the registrar immediately thereafter.

(2) If the original document is filed, the date of filing is deemed to have been the date the facsimile was received by the registrar.

Computing time

70 Except as otherwise provided by these rules, "PART FORTY-THREE" of *The Queen's Bench Rules* shall apply, with any necessary modification.

Extension of time

71 The court or a judge may enlarge or abridge the time periods fixed by these rules or by order on such terms as the case may require. The order enlarging or abridging the time may be made before or after the fixed time period has expired. (Forms 3a and 3b)

Representation by lawyer

72(1) Except as otherwise provided by these rules, “PART ONE, DIVISION V” of *The Queen’s Bench Rules* apply, with any necessary modification, to proceedings in the court or in chambers.

(2) A lawyer shall not cease to represent a party in a proceeding before this court after the contents of the appeal book have been settled, except with leave of the court.

(3) Where no agreement to settle the contents of the appeal book is required, a lawyer shall not cease to represent a party in a proceeding before the court in the 30 day period immediately preceding the hearing of an appeal or application, except with leave of the court or a judge, as the case may be.

Mechanical recording devices

73 Except as otherwise provided by law, no person shall record by any device, machine, or system the proceedings in the court or in chambers without leave of the court or a judge, as the case may be. New. Gaz. Nov. 16 2007.

Practice directives

74 The court may issue practice directives from time to time, clarifying or supplementing the practice before the court.

PART XVIII

REPEAL, TRANSITIONAL AND COMING INTO FORCE

Repeal

75 The rules of the court in force on the day preceding the day these rules come into force are repealed.

Transitional

76(1) Proceedings commenced prior to the coming into force of these rules and continued after their coming into force shall be governed by these rules without prejudice to anything lawfully done prior to the coming into force of these rules.

(2) Notwithstanding Subrule (1), the court or a judge may give directions respecting the application of these rules or an amendment to these rules to proceedings mentioned in Subrule (1).

Coming into force

77 These rules come into force on July 1, 1997.

APPENDIX TO THE COURT
OF APPEAL RULES

**APPENDIX TO THE
COURT OF APPEAL RULES**

FORM 1a (Rule 6)

IN THE COURT OF APPEAL FOR SASKATCHEWAN

Between

_____ Appellant (*status in court appealed from*)

– and –

_____ Respondent (*status in court appealed from*)

NOTICE OF APPEAL

TAKE NOTICE:

1. THAT _____ the above named Appellant hereby appeals to the Court of Appeal from the judgment (or order) of the Honourable Mr./Madam Justice _____ issued on the _____ day of _____, _____ .
(month) (year)

2. THAT the whole of the judgment (or order) or the following parts are being appealed:

3 THAT the source of the Appellant's right of appeal and the court's jurisdiction to entertain the appeal is:

4. THAT the appeal is taken upon the following grounds:

(Here set forth in numbered paragraphs the grounds upon which it is contended the judgment (or order) appealed against is erroneous.)

5. THAT the Appellant requests the following relief:

6. THAT the Appellant's address for service is: _____

Telephone number: _____

Fax number: _____

The lawyer in charge of the file is: _____

7. THAT the Appellant requests that this appeal be heard at (*Regina or Saskatoon*).

DATED at _____, Saskatchewan, this ____ day of _____, ____ .
(month) (year)

Name and Signature of the Lawyer for the Appellant

TO: _____
Respondent(s)

FORM 1b (Rule 6)
IN THE COURT OF APPEAL FOR SASKATCHEWAN

Between

_____ Appellant (*status in court appealed from*)
 – and –
 _____ Respondent (*status in court appealed from*)

NOTICE OF CROSS-APPEAL

TAKE NOTICE:

1. THAT the Respondent hereby cross-appeals from the judgment (or order) at issue in this appeal.
2. THAT the Respondent seeks to have the judgment (or order) varied in part as follows:
3. THAT the cross-appeal is taken upon the following grounds:
(Here set forth in numbered paragraphs the grounds upon which the cross-appeal is taken.)
4. THAT the Respondent requests the following relief:

DATED at _____, Saskatchewan, this ___ day of _____, ____ .
(month) *(year)*

 Name and Signature of the Lawyer for the Respondent

TO: _____
 The Appellant(s)

FORM 2a (Rule 21(1))
IN THE COURT OF APPEAL FOR SASKATCHEWAN

Between

_____ Appellant (*status in court appealed from*)
– and –
_____ Respondent (*status in court appealed from*)

PRAECIPE FOR TRANSCRIPT
(*when appeal is taken by a lawyer*)

Required on behalf of the Appellant, one typed copy and one set of computer data files containing a transcription of the evidence, as required pursuant to Rule 20 of *The Court of Appeal Rules*, together with the reasons for the judgment appealed from, if delivered orally and recorded, and the judge’s charge to the jury and counsel’s addresses to the jury, if any, and if required.

The trial (or hearing) took place at _____ on the _____ day(s) of _____, _____.
(month) (year)

I agree to pay the cost of such transcription to the Registrar when notified of it having been received.

DATED at _____, Saskatchewan, this ____ day of _____, ____.
(month) (year)

Name and Signature of the Lawyer for the Appellant

TO: The Registrar

FORM 2b (Rule 21(11))
IN THE COURT OF APPEAL FOR SASKATCHEWAN

Between

_____ Appellant (*status in court appealed from*)
– and –
_____ Respondent (*status in court appealed from*)

PRAECIPE FOR TRANSCRIPT
(*when appeal is taken in person*)

Required on behalf of the Appellant, one typed copy and one set of computer data files containing a transcription of the evidence, as required pursuant to Rule 20 of *The Court of Appeal Rules*, together with the reasons for the judgment appealed from, if delivered orally and recorded, and the judge's charge to the jury and counsel's addresses to the jury, if any, and if required.

The trial (or hearing) took place at _____ on the _____ day(s)
of _____, _____.
(month) (year)

I agree to pay the sum estimated by the Registrar within 10 days of being notified by the Registrar of the sum.

DATED at _____, Saskatchewan, this ____ day of _____, _____.
(month) (year)

Name and Signature of the Appellant

TO: The Registrar

FORM 3a (Rule 71)
IN THE COURT OF APPEAL FOR SASKATCHEWAN

Between

_____ Prospective Appellant (*status in court appealed from*)
– and –
_____ Prospective Respondent (*status in court appealed from*)

NOTICE OF MOTION
TO
EXTEND TIME FOR APPEAL

TAKE NOTICE:

1. THAT the Prospective Appellant intends to apply to the presiding judge in Chambers at the Court House, 2425 Victoria Avenue, Regina, Saskatchewan on Wednesday the _____ day of _____, _____ at 10:00 a.m. for the following relief:

	(month)	(year)
--	---------	--------

 - (a) An order pursuant to Rule 71 of *The Court of Appeal Rules* extending the time within which the Prospective Appellant may serve a notice of appeal from the judgment (or order) of the Honourable Mr./Madam Justice __ issued on the _____ day of _____, _____ .

	(month)	(year)
--	---------	--------
 - (b) An order pursuant to Rule 52 of *The Court of Appeal Rules* that the Prospective Respondent shall (or shall not) have the costs of this application.
2. THAT the following material will be filed in support of this application:
 - (a) This notice of motion with proof of service.
 - (b) The affidavit of _____ .
 - (c) The formal judgment (or order) from which the Prospective Appellant desires to appeal.
 - (d) The decision of the Honourable Mr./ Madam Justice _____ upon which the judgment (or order) is based.
 - (e) A draft notice of appeal.
 - (f) A draft order extending the time for appeal.
 - (g) A memorandum specifying the basis for the proposed extension.

3. THAT Prospective Appellant's address for service is: _____
Telephone number: _____
Fax Number: _____
The Lawyer in charge of the file is: _____

DATED at _____, Saskatchewan, this ____ day of _____, _____.
(month) (year)

Name and Signature of the Lawyer for the
Prospective Appellant

TO: _____
The Prospective Respondent(s)

FORM 3b (Rule 71)
IN THE COURT OF APPEAL FOR SASKATCHEWAN

Between

Prospective Appellant
- and -
Prospective Respondent

BEFORE THE HONOURABLE
MR./ MADAM JUSTICE

IN CHAMBERS:

Wednesday, the
day of
(month) (year)

DRAFT ORDER

UPON THE APPLICATION of the Prospective Appellant and having read the notice of motion with proof of service, the affidavit of, the formal judgment (or order) and the decision of the Honourable Mr./Madam Justice, together with such other material as was filed in support of the application, and having regard for the submissions of counsel:

IT IS HEREBY ORDERED:

- 1. THAT the time within which a notice of appeal may be served, appealing from the judgment (or order) of the Honourable Mr./Madam Justice issued the day of, is extended to and includes the day of.
2. THAT the Respondent shall have the costs of this application in any event of the cause.

ISSUED at, Saskatchewan, this day of (month) (year)

Registrar, Court of Appeal

FORM 4b (Rule 49)
 IN THE COURT OF APPEAL FOR SASKATCHEWAN

Between

_____ Prospective Appellant

– and –

_____ Prospective Respondent

BEFORE THE HONOURABLE
 Mr./MADAM JUSTICE

IN CHAMBERS:

}

Wednesday, the _____

day of _____, _____ .
 (month) (year)

DRAFT ORDER

UPON THE APPLICATION of the Prospective Appellant and having read the notice of motion with proof of service, the formal judgment (or order) and the decision of the Honourable Mr./Madam Justice _____, together with such other material as was filed in support of the application, and having regard for the submissions of counsel:

IT IS HEREBY ORDERED:

1. THAT the Prospective Appellant be granted leave to appeal from the judgment (or order) of the Honourable Mr./Madam Justice _____ issued the _____ day of _____, _____ .
 (month) (year)

OR

1. THAT the Prospective Appellant be granted leave to appeal from the judgment (or order) of the Honourable Mr./Madam Justice _____ dated the _____ day of _____, _____, to the extent the judgment (or order) gives rise to the following questions:
(Here set forth the specific issues in relation to which leave is to be, or was granted.)

2. THAT the costs of this application be costs in the cause.

ISSUED at _____, Saskatchewan, this ___ day of _____, ____ .
 (month) (year)

 Registrar, Court of Appeal

FORM 5b (Rule 15)
IN THE COURT OF APPEAL FOR SASKATCHEWAN

Between
Appellant
- and -
Respondent

BEFORE THE HONOURABLE
Mr./MADAM JUSTICE
IN CHAMBERS:
Wednesday, the
day of
(month) (year)

DRAFT ORDER

UPON THE APPLICATION of the Respondent, and having read the notice of motion with proof of service, the affidavit of, the formal judgment (or order) and the decision of the Honourable Mr./Madam Justice, together with such other material as was filed in support of the application, and having regard for the submissions of counsel:

IT IS HEREBY ORDERED:

THAT the stay of execution imposed pursuant to Rule 15 of The Court of Appeal Rules is lifted.

OR

THAT the stay of execution imposed pursuant to Rule 15 of The Court of Appeal Rules is continued on condition:

(Here set forth the proposed conditions upon which the stay may be continued, for example, in the case of an order for the payment of funds into court:

- 1. The Appellant shall deposit with the Registrar, not later than the day of, a sum equal to the judgment appealed from, or a surety bond or irrevocable letter of credit in the amount of the judgment and satisfactory to the Registrar.
2. All monies deposited with the Registrar shall be invested by the Registrar in an interest bearing account, and any surety bond or letter of credit filed with the Registrar shall be retained by the Registrar until further order or final determination of the appeal.
3. Anything realized by means of a writ of execution or garnishee shall be retained by the Sheriff or Local Registrar until further order or the final determination of the appeal.
4. (Further terms as required.)
5. The costs of this application shall be costs in the cause.)

ISSUED at, Saskatchewan, this day of, (month) (year)

Registrar, Court of Appeal

FORM 6a (Rule 46(1))
IN THE COURT OF APPEAL FOR SASKATCHEWAN

Between

_____ Appellant (*status in the court appealed from*)
– and –
_____ Respondent (*status in the court appealed from*)

NOTICE OF MOTION
TO
PERFECT APPEAL

TAKE NOTICE:

1. THAT the Respondent intends to apply to the presiding judge of the Court of Appeal, sitting in chambers, at the Court House, 2425 Victoria Avenue, Regina, Saskatchewan on Wednesday the _____ day of _____, _____ at 10:00 a.m. (month) (year)

for the following relief:

- (a) An order pursuant to Rule 46(1) of *The Court of Appeal Rules* requiring that this appeal be perfected promptly, failing which it may be exposed to dismissal for want of prosecution.
 - (b) An order pursuant to Rule 52 of *The Court of Appeal Rules* that the Respondent be awarded the costs of this application.
2. THAT the following material will be filed in support of this application:
- (a) This notice of motion with proof of service.
 - (b) The affidavit of _____.
 - (c) A draft order requiring perfection in accordance therewith.
 - (d) A memorandum specifying the basis for the application.

DATED at _____, Saskatchewan, this ___ day of _____, _____. (month) (year)

Name and Signature of the Lawyer for the
Respondent

TO: _____
The Appellant(s)

FORM 6b (Rule 46(1))
IN THE COURT OF APPEAL FOR SASKATCHEWAN

Between

_____ Appellant

- and -

_____ Respondent

BEFORE THE HONOURABLE
Mr./MADAM JUSTICE
IN CHAMBERS:



Wednesday, the _____

day of _____, _____.
(month) (year)

DRAFT ORDER

UPON THE APPLICATION of the Respondent, and having read the notice of motion with proof of service, the affidavit of _____, the record of the proceedings, and having regard for the submissions of counsel:

IT IS HEREBY ORDERED:

1. THAT the Appellant shall perfect this appeal as follows:

(Here set forth the steps to be taken by the Appellant, for example:

(a) The Appellant shall file with the Registrar on or before the _____ day of _____, _____.
(month) (year)

a praecipe for the transcript required by Rule 21 of The Court of Appeal Rules.

(b) The Appellant shall, within 30 days of being notified by the Registrar of the receipt of the transcript, serve and file the appeal book and factum.

OR

(a) The Appellant shall, within _____ days of being served with a copy of this order, serve and file an appeal book and factum.)

2. THAT should the Appellant fail to comply with this order, leave is hereby granted to the Respondent to apply to the Court, on five days notice, to dismiss the appeal for want of prosecution.

3. THAT the Respondent shall have the costs of this application.

ISSUED at _____, Saskatchewan, this ____ day of _____, _____.
(month) (year)

Registrar, Court of Appeal

FORM 7 (Rule 46(1))
IN THE COURT OF APPEAL FOR SASKATCHEWAN

Between

_____ Appellant (*status in court appealed from*)
 – and –
 _____ Respondent (*status in court appealed from*)

NOTICE OF MOTION
TO
DISMISS APPEAL FOR WANT OF PROSECUTION

TAKE NOTICE:

1. THAT the Respondent intends to apply to the Court of Appeal, at the Court House, 2425 Victoria Avenue, Regina, Saskatchewan on the _____ day of _____, _____ at 10:00 a.m. for the following relief:
 - (a) An order pursuant to Rule 46(1) of *The Court of Appeal Rules* dismissing the within appeal for want of prosecution.
 - (b) An order pursuant to Rule 52 of *The Court of Appeal Rules* that the Respondent have the costs of this application.
2. THAT the following material will be filed in support of this application:
 - (a) This notice of motion with proof of service.
 - (b) The affidavit of _____.
 - (c) The order of the Honourable Mr./Madam Justice _____ dated the _____ day of _____, _____, _____ with proof of service, requiring the perfection of this appeal.

(month) (year)

DATED at _____, Saskatchewan, this ____ day of _____, _____.
(month) (year)

Name and Signature of the Lawyer for the Respondent

TO: _____
The Appellant(s)

FORM 8 (Rule 45)
IN THE COURT OF APPEAL FOR SASKATCHEWAN

Between

_____ Appellant (*status in court appealed from*)

– and –

_____ Respondent (*status in court appealed from*)

NOTICE OF ABANDONMENT

TAKE NOTICE:

THAT the Appellant (or Applicant as the case may be), hereby abandons the appeal (or application) concerning the judgment (or order) of the Honourable Mr./Madam Justice _____ dated the __ day of _____, _____ .
(month) (year)

DATED at _____, Saskatchewan, this ___ day of _____, ____ .
(month) (year)

Name and Signature of (the Lawyer of) the Appellant
(or Applicant)

TO: _____
The Respondent(s)

FORM 9 (Rule 46(2))
IN THE COURT OF APPEAL FOR SASKATCHEWAN

Between

_____ Appellant (*status in court appealed from*)

– and –

_____ Respondent (*status in court appealed from*)

NOTICE TO SHOW CAUSE

TAKE NOTICE:

1. THAT the Registrar has referred the within appeal to the Court of Appeal for dismissal on the ground the appeal appears to have been abandoned.
2. THAT you have 15 days from the date of this notice, to apply to the Court of Appeal to show cause why the appeal should not be dismissed, failing which the Court shall dismiss the appeal as abandoned.

DATED at _____, Saskatchewan, this ____ day of _____, ____ .
(month) (year)

Registrar, Court of Appeal

TO: _____
The Appellant(s)

FORM 10a
(Judgment Dismissing Appeal)

[Court file no.]

IN THE COURT OF APPEAL FOR SASKATCHEWAN

BETWEEN

_____ Appellant(s)

– and –

_____ Respondent(s)

BEFORE

The Honourable [Chief Justice of Saskatchewan] or [Mr. or Madam Justice]

(name)

The Honourable [Mr. or Madam] Justice

(name)

The Honourable [Mr. or Madam] Justice

(name)

JUDGMENT OF THE COURT

THIS APPEAL from the judgment [or order] of the Honourable [Mr. or Madam] Justice

(name)

dated the ____ day of _____, _____ was heard on the ____ day
of _____, _____ at Regina [or Saskatoon].

ON READING the material filed with the court, including the judgment pronounced [or
order made] by the Honourable [Mr. or Madam] Justice _____
(name)

and the reasons therefor, and

ON HEARING the submissions on behalf of the parties,

THIS COURT HEREBY ORDERS:

- 1 That this appeal be dismissed.
- 2 That the appellant forthwith pay the respondent's taxed costs on appeal as
determined under column _____ of The Court of Appeal Tariff of Costs.

DATED this _____ day of _____, _____ .

Registrar, Court of Appeal.

New. Gaz. Nov. 16 2007.

FORM 10b
(Judgment Allowing Appeal and Granting Appellant Judgment Below)

[Court file no.]

IN THE COURT OF APPEAL FOR SASKATCHEWAN

BETWEEN

_____ Appellant(s)

– and –

_____ Respondent(s)

BEFORE

The Honourable [Chief Justice of Saskatchewan] or [Mr. or Madam Justice]

(name)

The Honourable [Mr. or Madam] Justice

(name)

The Honourable [Mr. or Madam] Justice

(name)

JUDGMENT OF THE COURT

THIS APPEAL from the judgment [or order] of the Honourable [Mr. or Madam] Justice

(name)

dated the ____ day of _____, _____ was heard on the ____ day
of _____, _____ at Regina [or Saskatoon].

ON READING the material filed with the court, including the judgment pronounced [or
order made] by the Honourable [Mr. or Madam] Justice _____

(name)

and the reasons therefor, and

ON HEARING the submissions on behalf of the parties,

THIS COURT HEREBY ORDERS:

- 1 That the appeal be allowed and the judgment [order] appealed from be set aside.
- 2 That the appellant shall have judgment in the proceedings in the Court of Queen's Bench that gave rise to the judgment [order] appealed from.
- 3 That the respondent forthwith pay the appellant's taxed costs in relation to the proceedings in the Court of Queen's Bench that gave rise to the judgment [order] appealed from, such costs to be determined in the Court of Queen's Bench in accordance with the rules of that Court and its Tariff of Costs.
- 4 That the respondent forthwith pay the appellant's taxed costs on appeal as determined under column _____ of the Court of Appeal Tariff of Costs.

DATED this _____ day of _____, _____ .

Registrar, Court of Appeal.

New. Gaz. Nov. 16 2007.

FORM 10c
(Judgment Allowing Appeal and Varying Judgment Below)

[Court file no.]

IN THE COURT OF APPEAL FOR SASKATCHEWAN

BETWEEN

_____ Appellant(s)

– and –

_____ Respondent(s)

BEFORE

The Honourable [Chief Justice of Saskatchewan] or [Mr. or Madam Justice]

(name)

The Honourable [Mr. or Madam] Justice

(name)

The Honourable [Mr. or Madam] Justice

(name)

JUDGMENT OF THE COURT

THIS APPEAL from the judgment [or order] of the Honourable [Mr. or Madam] Justice

(name)

dated the ____ day of _____, _____ was heard on the ____ day
of _____, _____ at Regina [or Saskatoon].

ON READING the material filed with the court, including the judgment pronounced [or
order made] by the Honourable [Mr. or Madam] Justice _____

(name)

and the reasons therefor, and

ON HEARING the submissions on behalf of the parties,

THIS COURT HEREBY ORDERS:

- 1 That the appeal be allowed and the judgment [order] appealed from be varied as follows:

- 2 That the respondent forthwith pay the appellant's taxed costs on appeal as determined under column _____ of the Court of Appeal Tariff of Costs.

DATED this _____ day of _____, _____ .

Registrar, Court of Appeal.

New. Gaz. Nov. 16 2007.

FORM 10d
(Judgment Allowing Appeal and Ordering New Trial)

[Court file no.]

IN THE COURT OF APPEAL FOR SASKATCHEWAN

BETWEEN

_____ Appellant(s)

– and –

_____ Respondent(s)

BEFORE

The Honourable [Chief Justice of Saskatchewan] or [Mr. or Madam Justice]

(name)

The Honourable [Mr. or Madam] Justice

(name)

The Honourable [Mr. or Madam] Justice

(name)

JUDGMENT OF THE COURT

THIS APPEAL from the judgment [or order] of the Honourable [Mr. or Madam] Justice

(name)

dated the ____ day of _____, _____ was heard on the ____ day
of _____, _____ at Regina [or Saskatoon].

ON READING the material filed with the court, including the judgment pronounced by
the Honourable [Mr. or Madam] Justice _____

(name)

and the reasons therefor, and

ON HEARING the submissions on behalf of the parties,

THIS COURT HEREBY ORDERS:

- 1 That the appeal be allowed and the judgment appealed from be set aside.
- 2 That a new trial be had between the parties.
- 3 That the respondent pay the appellant's taxed costs on appeal as determined under column _____ of the Court of Appeal Tariff of Costs.

DATED this _____ day of _____, _____ .

Registrar, Court of Appeal.

New. Gaz. Nov. 16 2007.

CRIMINAL PRACTICE DIRECTIVE No. 1

APPEALS FROM CONVICTION or ACQUITTAL

Effective January 1, 2001

Practice Directive No. 6 is cancelled and the following substituted therefor.

- 1 In appeals either from conviction under Section 675 of the *Criminal Code* (Canada) or a judgment or verdict of acquittal under Section 676 of the *Criminal Code* (Canada), counsel for the appellant and respondent are required to file factums.
- 2 The appellant's factum shall contain the following:
 - (a) copy of the indictment;
 - (b) copy of the trial judge's charge to the jury, if any;
 - (c) copy of the trial judge's judgment, if any;
 - (d) copy of the Notice of Appeal;
 - (e) an enumeration of those grounds of appeal the appellant proposes to argue and the grounds the appellant proposes to abandon;
 - (f) a description of those portions of the transcript that in the appellant's view relate to the grounds the appellant proposes to argue and to which the appellant specifically draws the Court's attention; and,
 - (g) the appellant's arguments in summary form respecting those grounds of appeal the appellant proposes to argue.
- 3 The respondent's factum shall contain:
 - (a) a description of those portions of the transcript that in the respondent's view relate to the grounds the appellant proposes to argue and to which the respondent specifically draws the Court's attention; and,
 - (b) the respondent's arguments in summary form respecting those grounds of appeal the appellant proposes to argue.
- 4 The appellant's counsel shall, not more than 30 days after the delivery to him/her by the Registrar of a copy of the transcript of evidence, file four (4) copies of his/her factum with the Registrar and serve one copy upon the respondent's counsel. The failure of the appellant's counsel to file and serve his/her factum as herein provided may result in the matter being set down by the Court for consideration of an order striking out the appeal.
- 5 The respondent's counsel shall, not more than 15 days after the receipt by him/her of the appellant's factum, file four (4) copies of his/her factum with the Registrar and serve one copy upon the appellant's counsel. The Failure of the respondent's counsel to file and serve his/her factum as herein provided may result in the matter being set down by the Court for disposition in light of such failure.

- 6 The time constraints referred to herein may be varied upon application.
- 7 **Except as otherwise provided by this directive, Rules 28, 29 and 39 of *The Court of Appeal Rules* apply, with any necessary modifications, to an appeal governed by this directive.**
- 8 This direction shall not apply to an appellant or respondent who does not have counsel.
- 9 In appeals where the appellant does not have counsel, the respondent Crown is required to file a factum which shall contain the following:
- (a) copy of the information or indictment;
 - (b) copy of the trial judge's charge to the jury, if any;
 - (c) copy of the trial judge's judgment, if any;
 - (d) copy of the Notice of Appeal; and
 - (e) the respondent's arguments in summary form.

NOTE: This Practice Directive is issued at the direction of the Chief Justice.

Maurice J. Herauf, Registrar, Q.C. Registrar
Court of Appeal for Saskatchewan.

CRIMINAL PRACTICE DIRECTIVE No. 2

Effective January 1, 2001

Practice Directive No. 7 is cancelled and the following substituted therefor.

1 In appeals to the Court of Appeal pursuant to either Section 830 or Section 839 of the *Criminal Code* (Canada), counsel for the appellant and respondent are required to file a Memorandum of Argument.

2 In an appeal under Section 830, the appellant's Memorandum shall contain the following:

- (a) copy of the Information;
- (b) copy of the Notice of Appeal;
- (c) transcript of the proceedings appealed from or a statement of facts agreed to, if any; and,
- (d) the appellant's argument in summary form.

3 In an appeal under Section 839, the appellant's Memorandum shall contain the following:

- (a) copy of the Information;
- (b) copy of the trial judge judgment, if any;
- (c) copy of the Notice of Appeal filed in the appeal court (Court of Queen's Bench) under Sections 813 and 815;
- (d) copy of the judgment of the appeal court (Court of Queen's Bench), if any;
- (e) copy of the Notice of Appeal to the Court of Appeal;
- (f) an enumeration of the grounds of appeal the appellant proposes to advance and a statement of the precise questions of law involved in the appeal;
- (g) copy of the transcript where the ground of appeal is that the verdict of the Trial Judge is unreasonable or there was no evidence to support a conviction;**
- (h) a description of those portions of the transcript that in the appellant's view relate to the questions of law involved in the appeal and to which the appellant specifically draws the Court's attention; and,
- (i) the appellant's argument in summary form.

4 The respondent's Memorandum shall contain:

- (a) in an appeal under Section 839, a description of those portions of the transcript that in the respondent's view relate to the questions of law involved in the appeal and to which the respondent specifically draws the Court's attention; and,
- (b) the respondent's argument in summary form.

- 5 The appellant's counsel shall, not more than 30 days following the date of filing of the Notice of Appeal with the Registrar, file four (4) copies of his/her Memorandum with the Registrar and serve one copy upon the respondent's counsel. The failure of the appellant's counsel to file and serve his/her Memorandum as herein provided may result in the matter being set down by the Court for consideration of an order striking out the appeal.
6. The respondent's counsel shall, not more than 15 days following the date of service upon him/her of the Memorandum of the appellant, file four (4) copies of his/her Memorandum with the Registrar and serve one copy upon the appellant's counsel. The failure of the respondent's counsel to file and serve his/her Memorandum as herein provided may result in the matter being set down by the Court for disposition in light of such failure.
- 7 The time constraints referred to herein may be varied upon application.
- 8 **Except as otherwise provided by this directive, Rules 28, 29 and 39 of *The Court of Appeal Rules* apply, with any necessary modifications, to an appeal governed by this directive.**
- 9 This directive shall not apply to an appellant or respondent who does not have counsel.
- 10 In appeals under Section 839 where the appellant does not have counsel, the respondent Crown is required to file a memorandum which shall contain the following:
 - (a) copy of the information;
 - (b) copy of the trial judge's judgment, if any;
 - (c) copy of the Notice of Appeal filed in the appeal court (Court of Queen's Bench) under Sections 813 and 815;
 - (d) copy of the judgment of the appeal court (Court of Queen's Bench), if any;
 - (e) copy of the Notice of Appeal to the Court of Appeal;
 - (f) the respondent's argument in summary form.

NOTE: This Practice Directive is issued at the direction of the Chief Justice.

Maurice J. Herauf, Registrar, Q.C. Registrar
Court of Appeal for Saskatchewan.

CRIMINAL PRACTICE DIRECTIVE No. 3
SENTENCE APPEALS

Effective July 1, 1997

Practice Directive No. 8 is cancelled and the following substituted therefor.

I. SENTENCE APPEALS WITH COUNSEL

1. In an appeal against sentence, counsel for the appellant and respondent are required to file factums.
2. The appellant's factum shall include the following:
 - a. the information or indictment and *certificate of conviction* and/or *order of disposition*;
 - b. a concise outline of the circumstances of the offence, including a statement of the facts as related to the trial Judge and any additional facts relied on;
 - c. any pre-sentence or post-sentence reports;
 - d. the criminal record, if any, of the appellant; and
 - e. a concise statement of the grounds of appeal together with a summary of the appellant's points to be argued and the authorities relied on.
3. The respondent's factum shall contain:
 - a. a statement indicating what portions of the appellant's outline of the circumstances of the offence and facts that the respondent accepts as correct, his/her version of those with which he/she disagrees and any additional facts relied on; and
 - b. the respondent's position with respect to the appellant's points to be argued and any additional points intended to be argued by the respondent.
4. The appellant's counsel shall, not more than 20 days following the date of filing of the Notice of Appeal with the Registrar, file four (4) copies of his/her factum with the Registrar and serve one copy upon the respondent's counsel. The failure of the appellant's counsel to file and serve his/her factum as herein provided may result in the matter being set down by the Court for consideration of an order striking out the appeal.
5. The respondent's counsel shall, not more than 10 days following the date of service upon him/her of the factum of the appellant, file four (4) copies of his/her factum with the Registrar and serve one copy upon the appellant's counsel.
6. The time constraints referred to herein may be varied upon application.
7. **Except as otherwise provided by this directive, Rules 28 and 29 of The Court of Appeal Rules apply, with any necessary modifications, to an appeal governed by this directive.**
8. This directive shall not apply where an appeal is taken by a person from both conviction and sentence. In such appeals, all relevant material and arguments may be included in the factum filed in accordance with Practice Directive No. 1 dealing with appeals from criminal convictions.

II. SENTENCE APPEALS WITHOUT COUNSEL

1. In an appeal against sentence, where the appellant is not represented by counsel, he/she may present his/her argument orally or in writing.
2. Any argument in writing shall be filed with the Registrar prior to the date fixed for the hearing, unless otherwise ordered by the Court or a Judge thereof.

NOTE: This Practice Directive is issued at the direction of the Chief Justice.

Maurice J. Herauf, Registrar,
Court of Appeal for Saskatchewan.

CRIMINAL PRACTICE DIRECTIVE NO. 4 — BOOKS OF AUTHORITIES

Effective November 1, 2009

General

1(1) The *Court of Appeal Criminal Proceedings Rules* do not require that copies of authorities be filed. However, the Court encourages the practice of filing a book of authorities.

(2) If only a few authorities are relied on, they may be included as an appendix to the factum provided that they are listed in the “index” at the beginning of the factum as described in Rule 29(4) of *The Court of Appeal Rules* (Civil) and marked with tabs.

Authorities to be Included

2(1) Subject to subsections (2) and (3), the authorities filed should ideally include all of those referred to in the factum, including cases, legislation and academic or other writings. However, filing key authorities is preferable to filing none.

(2) The book of authorities shall not include cases found in the “*Book of Authorities Criminal Exclusion List*” which appears as Appendix A of this Directive.

(3) Counsel are encouraged to co-operate in the production of a common book of authorities containing the authorities relied on by all parties. If a common book is not produced, the respondent’s book of authorities should contain only those authorities not found in the appellant’s book. An intervener’s book should contain only those authorities not found in either the appellant’s or the respondent’s books.

Form

3(1) The colour of an appellant’s book of authorities and a common book of authorities shall be buff, a respondent’s green and an intervener’s red.

(2) Each volume should contain an index which lists the authorities included in all volumes and indicates the volume and the tab where each authority is to be found.

(3) The index should list cases in alphabetical order and include citations. Where possible, Supreme Court Reports citations should be included for decisions of that Court and Saskatchewan Reports citations included for decisions of this Court. Where decisions from electronic databases are used, a citation from traditional print sources must also be included.

(4) Each authority should be marked with a separate tab.

- (5) Where a book of authorities exceeds 300 pages, it should be bound in volumes of not more than 200 pages each.
- (6) Where a book of authorities is printed in more than one volume, the cover and the spine of each volume should clearly indicate the volume number.
- (7) Authorities should be printed on both sides of the page.
- (8) Cases included in the book of authorities should always include a copy of the head note. The case should contain only as much of the text as is necessary to provide a full understanding of the passage or passages relied on. This might require that the entire decision be reproduced but often it will be possible to include only excerpts.

Marking of Passages

4 The passages in the authorities which are relied on by counsel should be marked either by way of coloured highlighting, underlining, marginal bars or similar technique.

Number of Copies

5 Unless otherwise directed by the Registrar, three copies of the book of authorities shall be filed with the Registrar.

Service and Filing

6 Books of authorities shall be served on all participants in the appeal before they are filed. Proof of service should be provided at the time of filing.

NOTE: This Practice Directive is issued by the Court under the authority of *The Court of Appeal Act, 2000.*

Lian Schwann, Q.C., Registrar,
Court of Appeal for Saskatchewan.

APPENDIX A

Book of Authorities Criminal Exclusion List

1. **R. v. Biniaris**, [2000] 1 S.C.R. 381; 2000 SCC 15.
2. **R. v. M. (C.A.)**, [1996] 1 S.C.R. 500.
3. **R. v. Proulx**, [2000] 1 S.C.R. 61; 2000 SCC 5
4. **R. v. Sheppard**, [2002] 1 S.C.R. 869; 2002 SCC 26.
5. **R. v. Shropshire**, [1995] 4 S.C.R. 227.
6. **R. v. Stinchcombe**, [1991] 3 S.C.R. 326.
7. **R. v. Yebes**, [1987] 2 S.C.R. 168.
8. **R. v. Oakes**, [1986] 1 S.C.R. 103.

Criminal Practice Directive No. 4 is issued by the Court of Appeal for Saskatchewan, this 2nd day of October, A.D. 2009.

New Gaz. 16 Oct 2009.

CIVIL PRACTICE DIRECTIVE NO. 1

Effective: November 1, 2009

Civil Practice Directive No. 1 (July 1, 1997) is cancelled and the following substituted therefore:

Resolution No. 8 passed at the 1985 Annual General Meeting of the Law Society of Saskatchewan attests to the profession's need and request for clarification of the Court's application of the rule of professional conduct that requires a lawyer to abstain from appearing as advocate in a proceeding where he has submitted his own affidavit – a rule expounded upon by this court in *Bilson v. University of Saskatchewan*, [1984] 4 W.W.R. 238; and *R. v. Ironchild*, 30 Sask. R. 269; and the cases cited therein. The purpose of this Directive is to provide that clarification.

1. The Court interprets the Rule, as set forth in the Canadian Bar Association Code of Professional Conduct, always to proscribe a lawyer's appearance except in three situations:

- (a) where the Rules of Court ("local rules or practice") expressly permit a lawyer's appearance despite his or her submission of an affidavit;
- (b) where the matter deposed to in the affidavit is purely a formal one;
- (c) where the matter deposed to, although not a mere formality, is uncontroverted, that is, not in issue.

2. What is and what is not a formal matter is usually readily ascertainable but will nevertheless have to be determined by the circumstances of each case.

3. What is uncontroverted may be determined readily by inquiry of the opposing party. If there is no opposing party, the matter in all likelihood is not controverted.

4. The lawyer who submits an affidavit and who intends to appear as advocate in the proceeding should state in the affidavit which of the three exceptions he or she relies upon to permit his or her appearance.

5. If he or she fails to so state in the affidavit, he or she should at the beginning of his or her argument in Chambers state the exception.

6. The same principles apply *mutatis mutandis* to a lawyer's appearance as advocate where he or she does not submit an affidavit but testifies in open court.

7. The same principles apply *mutatis mutandis* to a lawyer's appearance as advocate where he himself or she herself does not submit an affidavit or testify in open court but a lawyer in his or her firm submits an affidavit or testifies in open court.

8. Where it deems it in the interests of justice, the Court may, upon application, grant leave to a lawyer to appear as advocate notwithstanding the rule of conduct in question.

NOTE: This Practice Directive is issued by the Court under the authority of *The Court of Appeal Act, 2000* and Rule 74 of *The Court of Appeal Rules*.

Civil Practice Directive No. 2 is issued by the Court of Appeal for Saskatchewan, this 2nd day of October, A.D. 2009.

Lian Schwann, Q.C., Registrar,
Court of Appeal for Saskatchewan.

New Gaz. 16 Oct 2009.

CIVIL PRACTICE DIRECTIVE NO. 2 — BOOKS OF AUTHORITIES

Effective November 1, 2009

General

1(1) The *Court of Appeal Rules* (Civil) do not require that copies of authorities be filed. However, the Court encourages the practice of filing a book of authorities.

(2) If only a few authorities are relied on, they may be included as an appendix to the factum provided that they are listed in the “index” at the beginning of the factum as described in Rule 29(4) and marked with tabs.

Authorities to be Included

2(1) Subject to subsections (2) and (3), the authorities filed should ideally include all of those referred to in the factum, including cases, legislation and academic or other writings. However, filing key authorities is preferable to filing none.

(2) The book of authorities shall not include cases found in the “*Book of Authorities Civil Exclusion List*” which appears as Appendix A of this Directive.

(3) Counsel are encouraged to co-operate in the production of a common book of authorities containing the authorities relied on by all parties. If a common book is not produced, the respondent’s book of authorities should contain only those authorities not found in the appellant’s book. An intervener’s book should contain only those authorities not found in either the appellant’s or the respondent’s books.

Form

3(1) The colour of an appellant’s book of authorities and a common book of authorities shall be buff, a respondent’s green and an intervener’s red.

(2) Each volume should contain an index which lists the authorities included in all volumes and indicates the volume and the tab where each authority is to be found.

(3) The index should list cases in alphabetical order and include citations. Where possible, Supreme Court Reports citations should be included for decisions of that Court and Saskatchewan Reports citations included for decisions of this Court. Where decisions from electronic databases are used, a citation from traditional print sources must also be included.

(4) Each authority should be marked with a separate tab.

(5) Where a book of authorities exceeds 300 pages, it should be bound in volumes of not more than 200 pages each.

(6) Where a book of authorities is printed in more than one volume, the cover and the spine of each volume should clearly indicate the volume number.

(7) Authorities should be printed on both sides of the page.

(8) Cases included in the book of authorities should always include a copy of the head note. The case should contain only as much of the text as is necessary to provide a full understanding of the passage or passages relied on. This might require that the entire decision be reproduced but often it will be possible to include only excerpts.

Marking of Passages

4 The passages in the authorities which are relied on by counsel should be marked either by way of coloured highlighting, underlining, marginal bars or similar technique.

Number of Copies

5 Unless otherwise directed by the Registrar, three copies of the book of authorities shall be filed with the Registrar.

Service and Filing

6 Books of authorities shall be served on all participants in the appeal before they are filed. Proof of service should be provided at the time of filing.

NOTE: This Practice Directive is issued by the Court under the authority of *The Court of Appeal Act, 2000* and Rule 74 of *The Court of Appeal Rules*.

Lian Schwann, Q.C., Registrar,
Court of Appeal for Saskatchewan.

APPENDIX A

Book of Authorities Civil Exclusion List

1. **Dr. Q. v. College of Physicians and Surgeons of British Columbia**, [2003] 1 S.C.R. 226; 2003 SCC 19.
2. **Hickey v. Hickey**, [1999] 2 S.C.R. 518.
3. **Housen v. Nikolaisen**, [2002] 2 S.C.R. 235; 2002 SCC 33.
4. **Van de Perre v. Edwards**, [2001] 2 S.C.R. 1014; 2001 SCC 60.
5. **Dunsmuir v. New Brunswick**, [2008] 1 S.C.R. 190; 2008 SCC 9.
6. **H.L. v. Canada (Attorney General)**, [2005] 1 S.C.R. 401; 2005 SCC 25.
7. **R. v. Oakes**, [1986] 1 S.C.R. 103.

Civil Practice Directive No. 2 is issued by the Court of Appeal for Saskatchewan, this 2nd day of October, A.D. 2009.

New Gaz. 16 Oct 2009.

COURT OF APPEAL FOR SASKATCHEWAN —
CIVIL PRACTICE DIRECTIVE NO. 3

Effective: December 15, 2010

Practice Directive prevails: This Practice Directive prevails in the event of any conflict or inconsistency between this Practice Directive and *The Court of Appeal Rules*.

Electronic filing

1(1) In this section and sections 2 and 4, “**approved filer**” means a person who has been approved by the registrar pursuant to subsection (3).

(2) A person who intends to submit an electronic document for filing may apply to the registrar to become an approved filer.

(3) On receipt of an application pursuant to subsection (2), the registrar may approve the person as an approved filer if:

(a) the person provides an email address and any other information that may be requested by the registrar;

(b) the person agrees or undertakes to comply with the terms of use for electronic filing; and

(c) the registrar considers it appropriate to do so.

(4) The registrar may:

(a) impose any terms and conditions on an approved filer pursuant to subsection (3); and

(b) revoke approval if an approved filer fails to use the system in accordance with, or otherwise breaches, the terms of use, any term or condition imposed pursuant to clause (a) or this practice directive.

(5) An approved filer who submits an electronic document for filing shall:

(a) submit the document in an electronic format acceptable to the registrar along with proof of service; and

(b) at the time the document is submitted, pay any applicable fee by credit card (Visa or Mastercard).

(6) A document submitted for filing is not filed until the registrar accepts it for filing.

(7) If an electronic document submitted pursuant to this rule is accepted for filing by the registrar and the filing complies with the Rules, the document is filed:

(a) if the document is received by the registrar on or before 4 p.m. on a day on which the registry is open, on the day the document is submitted;

(b) if the document is received by the registrar after 4 p.m. on a day on which the registry is open, on the first following day that the registry is open;

(c) if the document is received by the registrar on a day on which the registry is not open, on the first day following that the registry is open.

(8) On accepting an electronic document for filing, the Registrar shall place an electronic stamp on the electronic document.

- (9) If a document in paper form is filed with the registrar, the registrar may convert the document into electronic form and, in that event, the registrar must:
- (a) store the conversion in an electronic system that the registrar considers appropriate; and
 - (b) retain the paper form of the document.

Electronic file access

- 2(1) If the registrar considers it appropriate, the registrar may permit an approved filer to access an electronic court file if the approved filer is:
- (a) an appellant, a respondent or an intervener on the file;
 - (b) a lawyer or law firm representing either an appellant, a respondent or an intervener on the file; or
 - (c) an employee of the lawyer or law firm referred to in clause (1)(b) who is authorized by that lawyer or law firm to access the electronic file.
- (2) A party, lawyer or law firm who submits for filing an initiating document (Notice of Appeal or Motion for Leave to Appeal) is not required to apply for access approval pursuant to subsection (1).
- (3) A lawyer or law firm with a right of access to an electronic file pursuant to either subsection (1) or (2) must immediately advise the registrar if:
- (a) the lawyer or law firm ceases to represent the appellant, respondent or intervener, as the case may be; or
 - (b) the lawyer or law firm wishes to have an employee's access rights rescinded.
- (4) The registrar may rescind access to an electronic court file by an approved filer:
- (a) in the circumstances set out in subsection (3); or
 - (b) if, in the opinion of the registrar, the approved filer has been in breach of the terms of use, any term or condition imposed pursuant to clause 1(4)(a) or this practice directive.

Transcript

- 3(1) Notwithstanding Rule 21, an appellant is not required to file a *praecipe* requisitioning a transcript.
- (2) Within 14 days after reaching agreement as to the parts of the transcript required for an appeal, the appellant shall order a complete transcript of the proceedings, or a transcript of the parts of the proceedings that the parties agree are required, from Transcript Services or any other commercial court reporting service in the format for transcripts approved by the Court.
- (3) The appellant must either:
- (a) file an electronic copy of the transcript with the registrar immediately on the appellant's receipt of the transcript; or
 - (b) make arrangements with Transcript Services or the commercial court reporting service, as the case may be, to file an electronic copy of the transcript with the registrar immediately after the transcript is completed and ready for filing.

Electronic filing – paper copy requirements

4(1) Subject to subrule (2), if an approved filer files a document electronically, the approved filer must, immediately after filing electronically, file one paper copy of the document with the registrar.

(2) If an approved filer files an appeal book or factum electronically, the approved filer must, immediately after filing electronically, file three bound paper copies of the appeal book or factum with the registrar.

Paper filing - paper copy requirements

5(1) Nothing in this practice directive prevents a party from filing a document in paper form with the registrar.

(2) If a party files an appeal book or factum in paper form:

(a) the original appeal book or factum must be unbound and un-perforated; and

(b) the three (3) copies must be bound.

Service, address for service and communications by registrar

6(1) Notwithstanding subrule 67(2), if service is required by the Rules, parties may effect service by any means permitted by Part Three of *The Queen's Bench Rules*, with necessary modification.

(2) In addition to the requirements of Rule 65, every party to an appeal must provide the registrar with a valid email address, unless exempted from doing so by the registrar.

(3) Notwithstanding Rule 68, any notice or other communication given by the registrar may be made by any means of electronic communication capable of producing a printed copy.

NOTE: This Practice Directive is issued by the Court under the authority of *The Court of Appeal Act, 2000* and Rule 74 of *The Court of Appeal Rules*.

Lian Schwann, Q.C., Registrar,
Court of Appeal for Saskatchewan.

Civil Practice Directive No. 3 is issued by the Court of Appeal for Saskatchewan, this 15th day of December, 2010.

The Honourable John Klebuc, Chief Justice of Saskatchewan

The Honourable Mr. Justice Stuart J. Cameron

The Honourable Mr. Justice William J. Vancise

The Honourable Madam Justice Marjorie A. Gerwing

The Honourable Mr. Justice J. Gary Lane

The Honourable Madam Justice Georgina R. Jackson

The Honourable Mr. Justice Robert G. Richards

The Honourable Madam Justice Gene Anne Smith

The Honourable Mr. Justice Ralph K. Ottenbreit

The Honourable Mr. Justice Neal W. Caldwell

Gazette date January 28, 2011

CIVIL PRACTICE DIRECTIVE NO. 4

Effective December 15, 2010

Practice Directive prevails: This Practice Directive prevails in the event of any conflict or inconsistency between this Practice Directive and *The Court of Appeal Rules*.

Taxation

1 For the purposes of Rule 54, a party wishing to have a bill of costs taxed before the registrar shall:

- (a) take out an appointment for taxation in Form A by first obtaining a date and time for taxation from the registrar;
- (b) prepare a proposed bill of costs in Form B;
- (c) serve the appointment for taxation and proposed bill of costs on the party against whom costs were imposed; and
- (d) file the appointment for taxation, proposed bill of costs and proof of service with the registrar.

Certificate

2 For the purposes of Rule 57, the certificate as to taxation of costs shall be in Form C.

NOTE: This Practice Directive is issued by the Court under the authority of *The Court of Appeal Act, 2000* and Rule 74 of *The Court of Appeal Rules*.

Lian Schwann, Q.C., Registrar,
Court of Appeal for Saskatchewan.

The Honourable John Klebuc, Chief Justice of Saskatchewan
The Honourable Mr. Justice Stuart J. Cameron
The Honourable Mr. Justice William J. Vancise
The Honourable Madam Justice Marjorie A. Gerwing
The Honourable Mr. Justice J. Gary Lane
The Honourable Madam Justice Georgina R. Jackson
The Honourable Mr. Justice Robert G. Richards
The Honourable Madam Justice Gene Anne Smith
The Honourable Mr. Justice Ralph K. Ottenbreit
The Honourable Mr. Justice Neal W. Caldwell

Gazette date January 28, 2011

CIVIL PRACTICE DIRECTIVE NO. 4
FORM A

CACV _____

IN THE COURT OF APPEAL FOR SASKATCHEWAN

BETWEEN:

APPELLANT

— and —

RESPONDENT

NOTICE OF APPOINTMENT FOR TAXATION OF COSTS

TO: _____

I HAVE MADE AN APPOINTMENT to tax the costs of the _____ before the Registrar of the Court of Appeal for Saskatchewan on the _____ day of _____, 20 ____ at _____ a.m., at the Court House, 2425 Victoria Avenue, Regina, Saskatchewan. A copy of the proposed Bill of Costs and an affidavit of disbursements are attached to this Appointment.

If you have been served with this Appointment and fail to attend, the Registrar may proceed with the taxation in your absence.

DATED at Regina, Saskatchewan, this _____ day of _____, 20 ____.

Deputy Registrar

To: Appellant/Respondent

This document was delivered by:

[Name of Appellant or Respondent]

[Address]

If represented by lawyer:

[Name of Law Firm]

[Address]

[Lawyer in charge of file:]

[Phone:]

[Fax:]

CIVIL PRACTICE DIRECTIVE NO. 4

FORM B

CACV _____

IN THE COURT OF APPEAL FOR SASKATCHEWAN

BETWEEN:

APPELLANT

— and —

RESPONDENT

BILL OF COSTS – COLUMN _____

#	DESCRIPTION	FEES	DISBURSEMENTS	TAXED ON	TAXED OFF
1.	Motion for Leave to Appeal				
2.	Notice of Appeal				
3.	Fee to Respondent on receipt of Notice of Appeal				
4.	Simple Motions				
5.	Complex Motions (a) opposed (b) unopposed				
6.	Agreement as to Contents of Appeal Book				
7.	Preparation of Appeal Book				
8.	Preparation of Factum				
9.	All Other Preparation for Hearing				
10.	Appearance to Present Argument on Appeal before Court of Appeal (for each ½ day) Second counsel (when allowed by the Court, for each ½ day)				
11.	Preparing Formal Judgment or Order				
12.	Correspondence				
13.	Preparation of Bill of Costs				
14.	Taxation of Bill of Costs				
15.	For all other services not otherwise provided for, the same fees as are authorized by the tariff of solicitors' fees in the court from which the appeal is brought				
16.	All necessary disbursements for which there are proper vouchers.				
	TOTAL FEES				
	TOTAL DISBURSEMENTS				
	TOTAL FEES AND DISBURSEMENTS				

TAXED ON \$ _____

TAXED OFF \$ _____

TAXED AT \$ _____

This Bill of Costs has been taxed and allowed at \$ _____, this ____ day of _____, 20 ____ .

Registrar, Court of Appeal

This document was delivered by:

[Name of law firm or party]

[Address]

[Lawyer in charge of file:]

[Telephone:]

[Fax:]

CIVIL PRACTICE DIRECTIVE NO. 4
FORM C

CACV _____

IN THE COURT OF APPEAL FOR SASKATCHEWAN

BETWEEN:

APPELLANT

— and —

RESPONDENT

CERTIFICATE OF TAXATION OF COSTS

I CERTIFY that I have taxed the costs of _____
(identify party entitled to costs)

in this appeal under the authority of Rule 54 of *The Court of Appeal Rules* and have taxed and
allowed costs in the sum of \$ _____ to be paid by _____.
(identify party liable to pay costs)

Dated at the City of Regina, in the Province of Saskatchewan, this _____ day of _____, 20 ____.

Registrar, Court of Appeal

TO: Appellant / Respondent

CIVIL PRACTICE DIRECTIVE No. 5

Repealed. Gaz. Nov. 16 2007

COURT OF APPEAL FOR SASKATCHEWAN — CIVIL PRACTICE DIRECTIVE NO. 5
PROOF OF SERVICE

Effective: January 1, 2012

Practice Directive prevails: This Practice Directive prevails in the event of any conflict or inconsistency between this Practice Directive and *The Court of Appeal Rules*.

Proof of Service

1 In addition to proving service of a document in a manner permitted under Part Three of *The Queen's Bench Rules*, legal counsel for a party or for an intervenor in a proceeding may prove service of a document for the purposes of *The Court of Appeal Rules* by filing a Certificate of Service in Form A, unless otherwise ordered by the court or a judge.

2 A Certificate of Service filed in accordance with section 1 is deemed to be proof of the service of the document or documents referred to therein in satisfaction of the applicable proof of service requirement of The Court of Appeal Rules, unless otherwise ordered by the court or a judge.

NOTE: This Practice Directive is issued by the Court under the authority of *The Court of Appeal Act, 2000* and Rule 74 of *The Court of Appeal Rules*.

Melanie A. Baldwin, Registrar,
Court of Appeal for Saskatchewan.

Civil Practice Directive No. 5 is issued by the Court of Appeal for Saskatchewan, this 1st day of January, 2012.

The Honourable John Klebuc, Chief Justice of Saskatchewan
The Honourable Mr. Justice Stuart J. Cameron
The Honourable Mr. Justice William J. Vancise
The Honourable Madam Justice Marjorie A. Gerwing
The Honourable Mr. Justice J. Gary Lane
The Honourable Madam Justice Georgina R. Jackson
The Honourable Mr. Justice Robert G. Richards
The Honourable Madam Justice Gene Anne Smith
The Honourable Mr. Justice Ralph K. Ottenbreit
The Honourable Mr. Justice Neal W. Caldwell
The Honourable Mr. Justice Maurice J. Herauf

CIVIL PRACTICE DIRECTIVE NO. 5
FORM A

CACV _____

IN THE COURT OF APPEAL FOR SASKATCHEWAN

BETWEEN:

APPELLANT

AND:

RESPONDENT

CERTIFICATE OF SERVICE

I, _____, being a member of the Law Society of Saskatchewan and legal counsel for the _____, certify that I caused [*legal counsel for*] the _____ to be served on the ____ day of _____, 20 ____, with a true copy of the following document(s):

Dated at _____, Saskatchewan, this ____ day of _____, 20 ____.

(Signature)

This document was delivered by:

[*Name of law firm*]

[*Address*]

Lawyer in charge of file:

Telephone:

Fax:

TO: REGISTRAR
COURT OF APPEAL FOR SASKATCHEWAN
2425 VICTORIA AVENUE
REGINA, SASKATCHEWAN S4P 4W6
Telephone: 306-787-5382
Fax: 306-787-5815
e-file: <https://ecourt.sasklawcourts.ca>

