

JUDICATURE ACT

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RULES OF THE NUNAVUT COURT OF APPEAL RESPECTING CIVIL APPEALS

The judges of the Nunavut Court of Appeal, under section 60 of the *Judicature Act* and every enabling power, make the annexed *Rules of the Nunavut Court of Appeal Respecting Civil Appeals*.

PART 1

INTERPRETATION AND APPLICATION

Interpretation

Definitions

1. (1) In these rules,

"appeal" means an appeal to the Court of Appeal; (*appel*)

"appellant" means a person who under an enactment or these rules

- (a) files an application for permission to appeal to the Court of Appeal, or
- (b) files a notice of appeal; (*appelant*)

"Chief Justice" means the Chief Justice of the Court of Appeal; (*judge en chef*)

"Clerk" means the clerk of the Nunavut Court of Justice; (*greffier*)

"Court" means the Court of Appeal unless the context indicates otherwise; (*Cour d'appel*)

"court appealed from" means the court, person or tribunal from which an appeal has been brought; (*juridiction inférieure*)

"decision" means the whole or any part of a decision of the court, person or tribunal from which an appeal lies and includes a judgment, order, decision, verdict, direction, determination or award and, where the context requires, includes the verdict or finding of a jury; (*décision*)

"electronic hearing" means an application or appeal conducted, in whole or part, by electronic means in which all the participants in the hearing and the Court can hear each other, whether all or some of the participants and the Court can see each other or are in each other's presence; (*audience électronique*)

"file" means

- (a) to present the correct document at the office of the Registrar, or
- (b) to send an electronic copy of the document to the Registrar in accordance with any Practice Direction for Electronic Filing adopted by the Registrar, and to obtain an acknowledgment by the Registrar that the document is part of the Court of Appeal Record; (*déposer*)

"judge", when used in reference to the Court of Appeal, includes the Chief Justice and other justices of appeal who compose the Court of Appeal; (*judge*)

"panel of the Court" means three or more judges of the Court of Appeal; (*formation de juges*)

"party" includes every person served with notice of or taking part in an appeal, whether or not the person is named in the record; (*partie*)

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"procedural order" includes an order

- (a) granting, refusing or dismissing an application,
- (b) setting aside any process exercised or purportedly exercised under these rules that is
 - (i) contrary to law,
 - (ii) an abuse of process, or
 - (iii) for an improper purpose,
- (c) giving any direction or ruling with respect to an appeal or application or a related matter,
- (d) making a ruling with respect to how or if these rules apply in particular circumstances or to the operation, practice or procedure under these rules,
- (e) imposing terms, conditions and time limits,
- (f) giving consent, permission or approval,
- (g) giving advice, including making proposals, providing guidance, making suggestions and making recommendations,
- (h) adjourning or staying all or any part of an appeal, action, application or proceeding, or
- (i) extending the time for doing anything in an appeal, or staying the effect of a judgment or order; (*ordonnance de procédure*)

"Registrar" means the person appointed as the Registrar of the Court of Appeal under the *Judicature Act*; (*registraire*)

"respondent" means, unless the context otherwise requires, the person who, under an enactment or these rules,

- (a) is named as a respondent to an application for permission to appeal, or
- (b) is named as a respondent to an appeal; (*intimé*)

"restricted court access order" means an order

- (a) banning publication of court proceedings,
- (b) to seal or partially seal a court file,
- (c) permitting a person to give evidence in a way that prevents that person or another person from being identified,
- (d) for a hearing from which the public is excluded, or
- (e) for use of a pseudonym; (*ordonnance d'accès restreint à l'audience*)

"Rules of the Nunavut Court of Justice" means the *Rules of the Supreme Court of the Northwest Territories*, N.W.T. Reg. R-010-96, or any rules amending or replacing those rules. (*Règles de la Cour de justice du Nunavut*)

References to appeal apply to cross appeal

(2) Where a respondent files a notice of cross appeal, unless these rules otherwise provide, the rules relating to appeals apply to the cross appeal and, in particular,

- (a) references to an appeal include a cross appeal;
- (b) references to an appellant include a respondent who files a notice of cross appeal;
- (c) references to a respondent include an appellant who is named as a respondent in a notice of cross appeal; and
- (d) references to parties to an appeal include parties to a cross appeal.

Application of general rules

2. (1) Subject to these rules, an enactment or a direction by an appeal judge, if these rules do not deal with a matter, the Rules of the Nunavut Court of Justice apply to appeals, with any appropriate modifications.

Specific Part of general rules applies

(2) Where a rule provides that a specific Part or rule in the Rules of the Nunavut Court of Justice applies to appeals, the specific Part or rule applies with any appropriate modifications.

Rules of the Nunavut Court of Justice do not apply to time

(3) Any rule of the Rules of the Nunavut Court of Justice that allows for the abridgment or enlargement of time by consent of the parties does not apply to a time period or deadline referred to in these rules.

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Definition: appropriate modifications

(4) In these rules, "appropriate modifications" means those changes and modifications to the use and interpretation of the Rules of the Nunavut Court of Justice necessary or appropriate for them to apply and be used in appellate practice.

Appeals as of Right

Appeal lies

3. (1) Except as otherwise provided, an appeal lies to the Court of Appeal from the whole or any part of a decision of a judge of the Nunavut Court of Justice sitting in court or chambers, or the verdict or finding of a jury.

No appeal if application without notice dismissed by a judge of the Nunavut Court of Justice

(2) No appeal is allowed to the Court of Appeal from the dismissal by a judge of the Court of Justice of an application made without notice.

Reapplying if application without notice dismissed by a judge of the Nunavut Court of Justice

(3) Where an application has been made to the Nunavut Court of Justice without notice and has been dismissed, the applicant may reapply

- (a) on notice, if the dismissal was for lack of notice; or
- (b) by renewal of the application if the dismissal was for reasons other than the lack of notice.

Divorce

(4) No appeal is allowed from

- (a) a judgment granting a divorce, on or after the date on which the divorce takes effect; or
- (b) an order made in a divorce proceeding more than 30 days after the date the order was made, unless an appeal judge extends the time.

Appeals with Permission

Appeals only with permission

4. (1) Except as provided in this rule, no appeal is allowed to the Court from the following types of decisions unless permission to appeal has been obtained from a single appeal judge or the court giving the order:

- (a) a decision of a single appeal judge;
- (b) a pretrial decision respecting adjournments, time periods or time limits;
- (c) a ruling during trial, where the appeal is brought before the trial is concluded;
- (d) a decision made on the consent of the parties;
- (e) a decision as to costs only, but an appeal or cross appeal is not "as to costs only" if a related substantive decision is also being appealed;
- (f) a decision where permission to appeal is required by an enactment;
- (g) a decision in a matter where the controversy in the appeal can be estimated in money and does not exceed the sum of \$25,000 exclusive of costs;
- (h) a decision on security for costs;
- (i) an appeal by a person who has been declared a vexatious litigant in the court appealed from or the Court.

Permission must be sought from same judge

(2) Permission to appeal a decision of a single appeal judge under paragraph (1)(a) must be sought from the same judge who made the decision that is to be appealed.

Appeals from denials and grants

(3) No appeal is allowed under paragraph (1)(a) from a decision of a single appeal judge granting or denying permission to appeal.

Denial of leave to take proceedings

(4) No appeal is allowed under paragraph (1)(i) from an order denying the vexatious litigant leave to institute or continue proceedings.

Cross Appeals

Cross appeals

5. (1) A respondent to an appeal may cross appeal any decision on which the respondent could have commenced an appeal, by filing a notice of cross appeal under rule 9.

Permission not needed

(2) Subject to subrule (3), where an appeal has been commenced the respondent does not need permission to file a cross appeal with respect to any decision described in subrule 4(1) if the cross appeal is only intended to vary the decision already under appeal.

If enactment requires permission

(3) Where an enactment provides that an appeal may only be commenced in the Court with permission, a respondent who wishes to cross appeal must apply for permission to cross appeal.

PART 2

THE APPEAL PROCESS

Starting an Appeal or Cross Appeal

How to start an appeal

6. Appeals must be started

- (a) where an enactment or these rules authorize a right of appeal, by filing a notice of appeal under rule 7; or
- (b) where permission to appeal must be obtained, by applying for permission under rule 32, and if permission is granted, then by filing a notice of appeal under rule 7.

Filing a notice of appeal

7. (1) In this rule, "date of decision" means

- (a) in the case of a judgment, when the formal judgment has been signed, entered and served;
- (b) in the case of an order, when the order has been signed, issued and served;
- (c) in the case of a direction, when the judgment or order found on it has been signed, entered or issued, and served; or
- (d) in the case of a finding or verdict, when the judgment or order found on it has been signed, entered or issued, and served.

Application for permission to appeal

(2) If permission to appeal is required, an application for permission to appeal in accordance with rule 32 must be filed and served within the time periods mentioned in paragraph (3)(a).

What appellant must do

(3) An appellant who has a right to appeal or who has obtained permission to appeal must

- (a) file with the Registrar three copies of a Civil Notice of Appeal that meets the requirements of rule 10
 - (i) within the time for commencing an appeal stated in an enactment,
 - (ii) if the appellant was granted permission to appeal, within 10 days after the date permission was granted, or
 - (iii) if subparagraphs (i) and (ii) do not apply, within 30 days after the date of decision, or within a further time that the judge who made it, or a judge of the Court of Appeal, may allow; and
- (b) file, for every other party to the appeal, one additional copy of the Civil Notice of Appeal within the time periods referred to in paragraph (a), and serve a copy on each other party within 15 days of that time period.

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Service

(4) The appellant must serve a filed copy of the notice of appeal on every party to the decision that is the subject of the appeal and on any person or body that these rules, an enactment or the direction of an appeal judge require to be served.

Appeals from several decisions

- 8.** A separate notice of appeal must be filed for each decision that is appealed, except where
- (a) the appeal concerns several decisions made by the court appealed from that arise out of the same hearing;
 - (b) the appeal concerns a substantive decision, and a ruling on costs for the same hearing;
 - (c) the appeal is of a decision that varies, confirms, explains or provides for the enforcement of a previous decision, and the previous decision is also being appealed; or
 - (d) a single appeal judge otherwise orders.

How to start a cross appeal

- 9.** A respondent who contends that the decision of the court appealed from should be varied must, within the time for filing an appeal or within 10 days of service of the notice of appeal, whichever is later,
- (a) file with the Registrar
 - (i) three copies of a Notice of Civil Cross Appeal in accordance with rule 10, or
 - (ii) where permission to cross appeal is required under subrule 5(3), an application for permission to civil cross appeal in accordance with rule 10; and
 - (b) file and serve, for every other party to the appeal and cross appeal, an additional copy of the Notice of Civil Cross Appeal or application.

Notices of Appeal and Cross Appeal

Forms

- 10.** (1) A Civil Notice of Appeal must be in Form AP-1 and a Notice of Civil Cross Appeal must be in Form AP-2.

Contents

- (2) A notice of appeal must indicate:
- (a) the parties' names, in the same order used in the style of cause in the court appealed from, with an indication of the status of each on the appeal and in the court appealed from;
 - (b) the name and file number used in the court appealed from;
 - (c) whether the whole or only part of the decision is appealed, and if only part is appealed, which part;
 - (d) whether the action under appeal was the subject of a restricted court access order or of any statutory restriction on publication; and
 - (e) the relief claimed.

Notice must include certain documents

- (3) A notice of appeal or cross appeal must include
- (a) where permission to appeal was required, particulars of or a copy of the order granting permission to appeal; and
 - (b) particulars of or a copy of the judgment, order or other decision being appealed.

Appeal Record

Appeal Record

- 11.** (1) Subject to rule 14, the appellant must
- (a) within 10 days after filing a notice of appeal, order or commence preparation of the Appeal Record described in rules 11 to 15;
 - (b) within 10 days after filing a notice of appeal, order a transcript of
 - (i) all oral evidence,

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- (ii) subject to paragraph (iii), only such part of the argument as is necessary to dispose of the appeal,
 - (iii) all oral argument in a chambers hearing, if that hearing did not exceed one half day, and
 - (iv) any oral reasons for the decision under appeal and for any other ruling that will be an issue on the appeal; and
- (c) within five days after ordering the Appeal Record and transcripts, file a copy of the order and serve a filed copy on the respondent.

Filing and service within reasonable time

(2) Unless the Appeal Record is being prepared by the appellant, a copy of any amendment to, or countermand of, the instructions to prepare the Appeal Record or transcripts must be filed and served on the respondent within a reasonable time after the amendment is made or the countermand given.

Filing the Appeal Record

- 12.** (1) Subject to rules 13 and 15, the appellant must file five copies of the Appeal Record, consisting of
- (a) Table of Contents;
 - (b) Part 1-Pleadings;
 - (c) Part 2-Final Documents; and
 - (d) Part 3-Transcripts, consisting of
 - (i) one paper and one electronic copy, if an electronic copy is available, or
 - (ii) five paper copies, if no electronic copy is available.

Service on other parties

(2) In addition to the copies required under subrule (1), the appellant must serve on every other party to the appeal a copy of the Appeal Record, and an electronic copy of the Transcripts if available.

Filing and service and consequence of failure to do so

- (3) The Appeal Record and Transcripts must be
- (a) prepared promptly and filed and served forthwith after they are prepared, and
 - (b) filed not later than six months from the date on which the notice of appeal was filed, or the appeal may be struck by a single appeal judge.

Requirements of Appeal Record if Appeal from a Court

Contents

- 13.** (1) The Appeal Record must meet the requirements of rule 15 and must contain:
- (a) a Table of Contents at the beginning of every volume
 - (i) listing separately each document and showing the page number where the document can be found
 - (ii) including a copy of the Table of Contents for the Transcripts required by subparagraph (d)(i), and
 - (iii) containing a list and description of all the exhibits entered in the trial court, and the page in the transcripts where the entry of the exhibit is shown;
 - (b) Part 1-Pleadings, which must contain the relevant pleadings in the action in chronological order, including
 - (i) the relevant pleadings, but the last version only of any pleading that was amended before trial,
 - (ii) any amendments to pleadings made at trial, and
 - (iii) if the appeal concerns a decision arising from an application, a copy of the application;
 - (c) Part 2-Final Documents, which must contain
 - (i) the written or transcribed reasons
 - (A) that led to the decision being appealed, including the reasons for any decision rendered during the trial that is relevant to the disposition of the appeal, and

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- (B) of any prior decision of a judge or tribunal that led to the decision now appealed,
 - (ii) the formal judgment, order or decision appealed,
 - (iii) any restricted court access order,
 - (iv) any prior order, reference to which is required to resolve the appeal,
 - (v) the order granting permission to appeal, if any,
 - (vi) the notice of appeal,
 - (vii) the notice of cross appeal, if any,
 - (viii) when an enactment or these rules require service on the Commissioner or the Minister of Justice and Attorney General for Canada, or both, proof of that service, and
 - (ix) if there is no oral record that can be transcribed for Part 3, a notation to that effect in the Table of Contents; and
- (d) Part 3-Transcripts, which must contain
 - (i) a table of contents at the beginning of every volume, listing separately each part of the transcript, the name of each witness and questioner and showing the page number where the part or the testimony of the witness or questioner begins,
 - (ii) all transcripts required by paragraph 11(1)(b), and
 - (iii) in the case of an appeal from a judgment in a jury trial, the answers given to any questions from the jury, the judge's charge to the jury and the address to the jury of each party.

If document unavailable

(2) Where any document required for the Appeal Record is not available at the time of its preparation, a note to that effect must be inserted in the Appeal Record in its place, and sufficient copies of the unavailable document must be filed as soon as possible or included in or appended to another document required to be filed.

Single appeal judge may vary requirements

(3) A single appeal judge may set or vary the contents or format of the Appeal Record as the nature of the appeal requires, including giving directions respecting transcripts.

Requirements of Appeal Record if Appeal from other than a Court

Appeal from tribunals

14. (1) Subject to the *Judicature Act* and any other enactment, where an appeal is from the decision of a person or body other than a court, the contents and filing of the Appeal Record must comply with rule 15, except that, subject to any direction of a single appeal judge

- (a) the contents of the Appeal Record must be prepared with appropriate changes, as the circumstances require, in order to ensure that the information required to resolve the appeal is before the Court; and
- (b) the Transcripts need only consist of any existing transcripts of evidence before the person or body whose decision is being appealed.

Single appeal judge may make any order

(2) A single appeal judge may make any order required to obtain production of records from the person or body whose decision is being appealed.

Format of Appeal Record

Appeal Record other than Transcripts

- 15.** (1) The Appeal Record, with the exception of Transcripts, must
- (a) be printed single sided and bound together along the right edge of the page so that the printed text is to the left of the binding;
 - (b) number the Pleadings starting with page P1, and the Final Documents with page F1;

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- (c) have red cardstock covers, front and back, prepared as required by subrule 73(2); and
- (d) be divided into numbered volumes of approximately 200 pages each.

Transcripts

(2) The Transcripts must

- (a) be prepared by a professional court reporter recognized by the Registrar;
- (b) be paginated and printed double sided;
- (c) have grey cardstock covers, front and back; and
- (d) be divided into numbered volumes of approximately 200 pages each.

Electronic format

(3) Subject to any Practice Direction for Electronic Filing, an Appeal Record may be completed in electronic format with the consent of all parties, or by order of a single appeal judge.

PART 3 PREPARING WRITTEN ARGUMENT AND SCHEDULING ORAL ARGUMENT OF APPEALS

Factums

Appellant's factum

16. (1) The appellant must file five copies of an appellant's factum that meet the requirements of rules 17 and 18, and must file and serve one additional copy on every other party to the appeal before the earlier of

- (a) two months after the filing of the Appeal Record, and
- (b) six months after the filing of the notice of appeal, or the appeal may be struck by a single appeal judge.

Respondent's factum

(2) The respondent, within two months of service of the appellant's factum, must

- (a) file five copies of
 - (i) a respondent's factum that meets the requirements of rules 17 and 18, or
 - (ii) a letter of intention not to file a factum; and
- (c) file and serve on every other party to the appeal an additional copy of the factum or letter of intention.

Failure by respondent to file factum

(3) A respondent that does not file a factum will not be permitted to present oral argument unless the panel of the Court orders otherwise.

Reply factum

(4) Where a cross appeal has been filed, the appellant must file and serve a reply factum, or a letter of intention not to file a reply factum, within 10 days of service of the respondent's factum.

Contents of factums

17. (1) A factum must include:

- (a) Table of Contents, including page numbers;
- (b) Part 1-Facts: in the appellant's factum, a statement of facts (including, if desired, a concise introductory statement of the legal issues raised), and in the respondent's factum, its position on the facts as stated by the appellant, and any other facts considered relevant;
- (c) Part 2-Grounds of Appeal: in the appellant's factum, a concise statement of the grounds for appeal, and in the respondent's factum, its position in regards to the stated grounds, and any other points that may properly be put in issue;
- (d) Part 3-Standard of Review: a statement on the relevant standard of review;
- (e) Part 4-Argument: a discussion addressing the questions of law or fact raised by the appeal;
- (f) Part 5-Relief Sought: a statement of the relief sought, including any special direction with respect to costs;

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- (g) the estimated time required for the oral argument, within the limits set out in subrule 23(4);
- (h) a comprehensive Table of Authorities
- (i) listing separately each authority, and
- (ii) providing any neutral citation assigned to the authority by the court that decided it, and at least one print citation where available; and
- (i) an Appendix containing extracts from any statute, enactment or rule necessary for the disposition of the appeal, unless they are reproduced elsewhere in the materials to be filed.

Respondent's factum

(2) Where a notice of cross appeal has been filed, the respondent's factum must consist of two sections, each of five parts as required by subrule (1), entitled "factum on the appeal" and "factum on the cross appeal", prepared in accordance with subrule (1) with any appropriate modifications.

Intervenor's factum

(3) An intervenor's factum must be prepared in the same form as a respondent's factum, with any appropriate modifications.

Single appeal judge may vary requirements

(4) A single appeal judge may vary the format or filing of, or dispense with the preparation of, a factum.

Format of Factums

Format

18. (1) Factums must be

- (a) formatted using at least 12 point font, one inch margins and at least one and one half line spacing, except for quotations, and
- (b) printed single sided and bound together along the right hand side of the page so that the printed text is to the left of the binding.

Size limits

(2) Parts 1 to 5 of a factum must not exceed in length

- (a) 30 pages for the parties;
- (b) 40 pages for a respondent who has filed a cross appeal;
- (c) 10 pages for an appellant's factum in response to a cross appeal; and
- (d) 30 pages for an intervenor.

Precise references

(3) Factums must contain precise references to the location, page numbers and paragraph numbers or lines of the Appeal Record, Extracts of Key Evidence and authorities referred to in them.

Covers

(4) Each factum must have cardstock covers, front and back, prepared as required by subrule 73(2), in the following colours:

- (a) appellants, including appellants who are cross respondents-beige or ivory;
- (b) respondents, including respondents who are cross appellants-green;
- (c) intervenors-blue.

Extracts of Key Evidence

Filing Extracts of Key Evidence

19. (1) Where necessary to resolve the issues in the appeal, each party to an appeal must file Extracts of Key Evidence that meet the requirements of rule 21,

- (a) containing extracts of the transcripts, exhibits and other material on the record needed to resolve the issues in the appeal,
- (b) excluding any evidence, exhibits and other materials unlikely to be needed, and
- (c) not containing any comment, argument, trial briefs, legal authorities or new evidence.

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If document unavailable

(2) If a document required by rule 13 was not available at the time of preparation of the Appeal Record, a copy must be included in the Extracts of Key Evidence or appended to the factum.

Copies to be filed and served

(3) A party preparing Extracts of Key Evidence must file, when or before filing that party's factum, five copies of the Extracts of Key Evidence, and must file and serve one additional copy on every other party to the appeal.

Record before the Court

Evidence and exhibits part of record

20. (1) Subject to any enactment, all evidence or exhibits received by the court appealed from are an official part of the record before the Court, notwithstanding that no copy is filed with the Court.

If exhibit cannot readily be reproduced

(2) If an exhibit cannot be readily reproduced and will be referred to in argument, the Extracts of Key Evidence must be accompanied with a letter to the Registrar requesting that the original exhibit be made available at the hearing of the appeal.

Appeal judge may direct

(3) An appeal judge may direct, on any conditions that the judge considers to be appropriate, that any records before the court appealed from be transmitted to the Court

Format of Extracts of Key Evidence

Contents and format

21. Extracts of Key Evidence must

- (a) have a table of contents at the beginning of every volume, listing separately each document, including each exhibit to any affidavit, and showing the page number where the document can be found;
- (b) be numbered sequentially throughout, commencing with
 - (i) page A1 for the appellant's Extracts of Key Evidence,
 - (ii) page R1 for the respondent's Extracts of Key Evidence, and
 - (iii) page I1 for the intervenor's Extracts of Key Evidence;
- (c) have cardstock covers, front and back, prepared as required by subrule 73(2), in the following colours:
 - (i) appellants, including appellants who are cross respondents-yellow,
 - (ii) respondents, including respondents who are cross appellants-pink,
 - (iii) intervenors-blue; and
- (d) be bound in volumes of approximately 200 pages each, provided that if the Extracts of Key Evidence do not exceed 30 pages, they may be included as an appendix to the factum.

Books of Authorities

Books of Authorities not to be filed

22. (1) Books of authorities shall not be filed.

Must bring sufficient copies

(2) If a party proposes to refer to specific passages in authorities during the oral argument, that party must bring sufficient copies of the specific passages to the hearing for the use of the Court and the parties.

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Scheduling Oral Argument

Oral argument

- 23.** (1) Unless otherwise directed,
- (a) all appeals will be set down for an oral hearing; and
 - (b) the appeal and any cross appeal will be argued at the same time.

Hearing and deciding appeal without oral argument

- (2) On agreement of all parties, but subject to any contrary direction, the Court may hear and decide an appeal without oral argument.

Absence of party

- (3) The Court may proceed with the hearing of an appeal when scheduled, even if
- (a) a party does not appear at the scheduled time; or
 - (b) any party has failed to file its factum.

Time limit for oral argument

- (4) Unless the panel of the Court otherwise permits, oral argument must not exceed 45 minutes for each separately represented party in the appeal, with any consolidated appeals to be treated as one appeal.

Sittings

- (5) The Court shall sit at such times and places as the Chief Justice of the Court appoints.

Who presides

- (6) If present, the Chief Justice presides at the sittings of the Court, but otherwise the senior judge not being a supernumerary judge presides

Scheduling appeals

- 24.** (1) The list of appeals will be called by a single judge at times scheduled for the Speaking to the List.

Parties shall appear

- (2) The parties to every appeal shall appear at the Speaking to the List and provide an update as to the progress of the appeal.

Hearing scheduled for next sitting

- (3) If the Appeal Record and factums have been filed at the time the list is spoken to, the appeal shall be scheduled for hearing at the next or a subsequent sitting of the Court.

Appeal not perfected not scheduled normally

- (4) An appeal that has not been perfected at the time of the Speaking to the List may be scheduled for hearing, on any terms specified by the judge.

If appeal not spoken to or scheduled

- (5) If an appeal is not spoken to or not scheduled for hearing at the Speaking to the List, the judge may
- (a) order that the appeal remain on the List,
 - (b) strike the appeal for delay or want of prosecution, or
 - (c) make a procedural order to advance the appeal.

Adjourning or rescheduling appeals

- 25.** (1) A scheduled oral hearing may only be adjourned or rescheduled by the parties if the appeal has been discontinued or settled, or if a single appeal judge permits the hearing to be adjourned or rescheduled.

Single appeal judge may set down time or place of appeal or vary

- (2) A single appeal judge may at any time set down or reschedule an appeal, or place any appeal on or remove any appeal from the hearing list.

PART 4
DECIDING APPLICATIONS

Powers of Single Appeal Judges

Single appeal judge

26. (1) Unless an enactment or these rules otherwise require, a single appeal judge may hear and decide any application incidental to an appeal.

Powers

- (2) For greater certainty, a single appeal judge may
- (a) grant permission to appeal, unless an enactment requires that an application for permission to appeal must be heard by a panel of the Court;
 - (b) declare an appeal to be struck, dismissed or abandoned for failure to comply with a mandatory rule, prior order or direction of the Court;
 - (c) when a notice of appeal or an application for permission to appeal is not filed within the time limit, strike the appeal or application or extend the time to appeal or to seek permission to appeal;
 - (d) dismiss an appeal if it has not been significantly advanced in over six months and significant prejudice has resulted to a party;
 - (e) grant leave to intervene; or
 - (f) refer any application to a panel of the Court.

Powers of Panels of the Court

Panel

27. (1) A panel of the Court may decide any application, including those that could have been decided by a single appeal judge.

Applications that must be heard by panel

- (2) The following applications must be heard by a panel of the Court:
- (a) an application to allow or dismiss an appeal on the merits;
 - (b) an application for new evidence, unless a panel directs that the application be heard by a single appeal judge;
 - (c) an application to reargue or reopen an appeal;
 - (d) an application for directions required to give effect to any decision of the Court, unless a panel directs that the application be heard by a single appeal judge;
 - (e) an application to reconsider a prior precedential decision of the Court.

How to Apply

Applications to single appeal judges

- 28.** (1) Subject to rules 32 to 36, an application to a single appeal judge must be made by filing three copies of
- (a) an application that meets the requirements of rule 41;
 - (b) any accompanying affidavit, if required;
 - (c) other material to be relied on, even if previously filed; and
 - (d) a memorandum of argument that meets the requirements of rule 42.

Filing and serving on other parties

(2) Unless otherwise ordered and subject to rule 32, the applicant must file and serve on each other party, at least 10 days before the application is scheduled to be heard, one additional copy of the documents referred to in subrule (1).

Responses to applications to single appeal judges

29. The respondent to an application to a single appeal judge must, at least five days before the scheduled hearing of the application,

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

- (a) file three copies of a reply memorandum of argument prepared in compliance with rule 42, any accompanying affidavit (if required), and any other materials to be relied on, and file additional copies and serve them on every other party; or
- (b) file three copies and serve a letter indicating that no additional materials will be filed by the respondent.

Applications to Court of Appeal panels

- 30.** (1) Subject to rules 32 to 36, an application to a panel of the Court must be made by filing five copies of
- (a) an application that meets the requirements of rule 41;
 - (b) any accompanying affidavit, if required;
 - (c) other material to be relied on, even if previously filed; and
 - (d) a memorandum of argument that meets the requirements of rule 42.

Filing and serving on other parties

(2) The applicant must file and serve on each other party, at least 20 days before the application is scheduled to be heard, one additional copy of the documents referred to in subrule (1).

Responses to applications to Court of Appeal panels

- 31.** The respondent to an application to a panel of the Court must, at least 10 days before the scheduled hearing of the application
- (a) file five copies of a reply memorandum of argument prepared in compliance with rule 42, and any accompanying affidavit (if required), and file and serve additional copies on every other party to the appeal; or
 - (b) file five copies and serve a letter indicating that no additional materials will be filed by the respondent.

Rules for Specific Applications

Application for permission to appeal

- 32.** (1) An application for permission to appeal must comply with subrule 4(2) and rules 28 and 41, and
- (a) must be filed and served within the period specified in any enactment or these rules; or
 - (b) if there is no time for filing permission to appeal specified in any enactment or these rules, must be filed and served within the time for filing appeals set out in rule 7.

Deemed abandonment

(2) An application for permission to appeal that has not been heard within six months from the date of the filing of the application is deemed to have been abandoned unless a single appeal judge otherwise directs.

Applications to preserve time limitation

(3) Applications to preserve a time limitation may be brought on the notice a single appeal judge directs.

Application to admit new evidence

33. (1) An application to admit new evidence must be filed and served prior to the filing of, and prior to the deadline for filing, the applicant's factum.

Additional documents to be filed

- (2) In addition to the documents required by subrule 30(1), the applicant must file
- (a) five copies of the proposed new evidence; and
 - (b) five envelopes large enough to contain a copy of the new evidence, marked "New Evidence" and with the appeal number and style of cause.

Application to reconsider a previous decision

34. An application to reconsider a precedential decision of the Court must be filed and served and must be returnable prior to the filing of, and prior to the deadline for filing, the applicant's factum.

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

Application to restore an appeal

35. An application to restore an appeal that has been struck out or deemed abandoned or deemed dismissed must be filed and served and must be returnable within six months after the appeal has been struck, deemed abandoned or deemed dismissed.

Application to stay pending appeal

36. An application to stay proceedings or enforcement of a decision pending appeal may be made

- (a) to the judge who made that decision; or
- (b) to a single appeal judge, whether the application was made to the judge who made the decision, and whether that application was granted or dismissed.

Deciding Applications

Failure to respond

37. A respondent who fails to respond to an application or who elects not to file a memorandum in response to an application may not present oral argument at the hearing of the application unless the single appeal judge or the panel of the Court otherwise permits.

- (a) file five copies of a reply memorandum of argument prepared in compliance with rule 42, and any accompanying affidavit (if required), and file and serve additional copies on every other party to the appeal; or
- (b) file five copies and serve a letter indicating that no additional materials will be filed by the respondent.

Rules for Specific Applications

Time limits for oral argument

38. Unless otherwise permitted,

- (a) subject to paragraph (b), oral argument on an application, including a reply, before a single appeal judge or a panel of the Court must not exceed 15 minutes for each party to the application;
- (b) oral argument on an application for permission to appeal, including a reply, must not exceed 30 minutes for each party to the application; and
- (c) consolidated applications are to be treated as one application for the purposes of this rule.

Applications without oral argument

39. On agreement of all parties, but subject to any contrary direction, a single appeal judge or a panel of the Court may hear and decide applications without oral argument.

Applications not heard within three months

40. If an application, other than an application for permission to appeal referred to in subrule 32(2), is not heard within three months after the date the application is filed, the application is deemed to be abandoned unless a single appeal judge otherwise directs.

Format of Applications and Responses

Format of applications

41. An application to a single appeal judge or a panel of the Court must be in Form AP-3 and must

- (a) state briefly the grounds for filing the application;
- (b) identify the material or evidence intended to be relied on;
- (c) refer precisely to any applicable provision of an enactment or rule;
- (d) state the remedy sought; and
- (e) in an application for permission to appeal,
 - (i) include a copy of the reasons for the decision proposed to be appealed, and
 - (ii) state the exact questions of law on which permission to appeal is requested.

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

Format of memoranda

- 42.** Memoranda filed on an application
- (a) must be formatted as required by paragraph 18(1)(a);
 - (b) must not be longer than 10 pages on an application for permission to appeal and five pages for any other application; and
 - (c) may in addition attach a chronology, where that is relevant to the application.

PART 5 MANAGING THE APPEAL PROCESS

Responsibilities of the Parties and Court Assistance

Responsibility of parties to manage an appeal

- 43.** (1) The parties to an appeal are responsible for managing the appeal and for planning its resolution in a timely and cost effective way.

Direction

- (2) The parties may seek advice and direction for managing the appeal from a single appeal judge.

Orders to facilitate appeal

- 44.** If an appeal is not being managed in an appropriate way, a single appeal judge may make a procedural order, an order expediting the appeal, or any other appropriate order

Parties to an Appeal

Adding, removing or substituting parties to an appeal

- 45.** A party or person may be added, removed or substituted as a party to an appeal in accordance with the Rules of the Nunavut Court of Justice.

Intervenor status on appeal

- 46.** (1) In addition to persons having a right to intervene in law, a single appeal judge may grant status to a person to intervene in an appeal, subject to any terms and conditions and with the rights and privileges specified by the judge.

Status must be reapplied for on appeal

- (2) A person granted intervenor status in the court appealed from must apply again to obtain intervenor status on an appeal.

Restriction on intervenor

- (3) Unless otherwise ordered, an intervenor may not raise or argue issues not raised by the other parties to the appeal.

Settlement Using Court Process

Formal offers to settle

- 47.** (1) No later than 10 days before an appeal is scheduled to be heard, a party may serve on the party to whom the offer is made a formal offer to settle the appeal or any part of the appeal in accordance with the Rules of the Nunavut Court of Justice.

Rules of the Nunavut Court of Justice apply

- (2) A valid formal offer to settle an appeal may be accepted in accordance with the Rules of the Nunavut Court of Justice.

Duration of offer to settle

- (3) Unless a valid formal offer to settle an appeal is withdrawn under the Rules of the Nunavut Court of Justice, the offer remains open for acceptance until the earlier of

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

- (a) the expiry of two months after the date of the offer or any longer period specified in the offer; and
- (b) the start of the oral hearing of the appeal.

Costs

(4) Where a formal offer to settle an appeal is made, costs of the appeal must be awarded in accordance with of the Rules of the Nunavut Court of Justice.

Delay in Advancing Appeals

Dismissal for delay

48. A panel of the Court may dismiss an appeal if it is satisfied that delay in advancing the appeal has resulted in significant prejudice to a party.

Powers of a single appeal judge

49. If delay occurs in the advancement of an appeal, a single appeal judge may

- (a) make a procedural order or give directions to expedite the appeal; or
- (b) dismiss the appeal, if it has not been significantly advanced for over six months and significant prejudice has resulted to a party.

Failure to meet deadlines

50. An appeal may be struck by a single appeal judge if

- (a) the appellant has failed to file the Appeal Record within the time period set out in these rules;
- (b) the appellant has failed to file its factum before the expiry of the deadline for filing the factum; or
- (c) an appeal has not been scheduled for oral argument before the earlier of
 - (i) six months after the deadline for the filing of the last factum in the appeal, and
 - (ii) 12 months after the filing of the notice of appeal.

Restoring appeals

51. (1) An appeal or application for permission to appeal that has been struck, dismissed or deemed abandoned by operation of these rules or the provisions of any order, or by failure of any party to appear when required, may be restored with the filed written consent of the parties or by order of a single appeal judge on application under rule 35 Deadlines and directions for filing

(2) An order or written consent restoring an appeal must set deadlines and directions for the filing of any outstanding materials, and if the appellant fails to comply with any of those deadlines or directions, the appeal is deemed to have been struck again.

Deemed abandonment

(3) An appeal or application is deemed to have been abandoned if no application to restore the appeal or application for permission to appeal has been filed, served and granted within six months after the appeal or application has been struck, deemed abandoned or deemed dismissed.

Discontinuing an Appeal

Discontinuance

52. (1) An appellant may discontinue an appeal by filing and serving a Notice to Discontinue in Form AP-4, and the respondent is entitled to a costs award for having responded to the appeal.

No effect on cross appeal

(2) The discontinuance of an appeal does not operate as a discontinuance of a cross appeal.

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

Security for Costs

Security for costs

53. (1) A single appeal judge may order a party to provide security for payment of a costs award.

No security provided is deemed abandonment

(2) Where a party does not provide security as ordered, the appeal is deemed to have been abandoned and the other party is entitled to a costs award.

PART 6 DECIDING APPEALS AND APPLICATIONS

Effect of Filing an Appeal

No stay of enforcement

54. Unless otherwise ordered under rule 36 or provided by law, the filing of an appeal or an application for permission to appeal does not operate as a stay of proceedings or enforcement of the decision under appeal.

Intermediate acts valid

55. Unless otherwise ordered by the court appealed from, an appeal does not invalidate any intermediate act or proceeding taken

Failure to meet deadlines

50. An appeal may be struck by a single appeal judge if

- (a) the appellant has failed to file the Appeal Record within the time period set out in these rules;
- (b) the appellant has failed to file its factum before the expiry of the deadline for filing the factum; or
- (c) an appeal has not been scheduled for oral argument before the earlier of
 - (i) six months after the deadline for the filing of the last factum in the appeal, and
 - (ii) 12 months after the filing of the notice of appeal.

Restoring appeals

51. (1) An appeal or application for permission to appeal that has been struck, dismissed or deemed abandoned by operation of these rules or the provisions of any order, or by failure of any party to appear when required, may be restored with the filed written consent of the parties or by order of Basis on Which Appeals Are Decided

No new evidence without order

56. Unless an order is granted under rule 33 permitting the admission of new evidence, appeals will be decided on the record before the court appealed from.

Interlocutory decisions

57. An interlocutory order of the court appealed from does not restrict the ability of the Court to decide an appeal, despite there having been no appeal from the interlocutory order.

Binding precedent

58. Unless permission has been granted under rule 34 by a panel of the Court, no party may argue that a prior precedential decision of the Court should be reconsidered.

Powers of the Court

Procedural powers

59. In addition to the powers otherwise provided for in these rules, a single appeal judge or a panel of the Court may

- (a) adjourn any appeal or matter, with or without conditions;

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

- (b) cure any contravention, non compliance or irregularity in procedure, or permit or direct any amendment or any deviation from the requirements of these rules with respect to the form or filing of any document;
- (c) make a procedural order with respect to any appeal or application;
- (d) render judgment at any time;
- (e) render or sign judgment on behalf of another judge or a panel when authorized to do so;
- (f) inspect any property in accordance with rule 338 of the Rules of the Nunavut Court of Justice;
- (g) hear any appeal or application by an electronic hearing; and
- (h) enlarge or abridge the time specified by these rules or an order on such terms as are considered just, either before or after the expiry of the time.

Application to dismiss an appeal

60. On application, a panel of the Court may dismiss all or part of an appeal and may make any order that the circumstances require, including a costs award, if

- (a) the Court has no jurisdiction;
- (b) the appeal is moot;
- (c) the appeal is frivolous, vexatious, without merit or improper; or
- (d) the appeal or any step in the appeal is an abuse of process.

Disposing of appeals

61. (1) Unless an enactment otherwise provides, when deciding an appeal the Court may

- (a) receive further evidence;
- (b) draw inferences of fact;
- (c) give any judgment or order that ought to have been made by the court appealed from;
- (d) direct the resumption or continuation of any proceeding before the court appealed from;
- (e) vary or reverse a finding on any question, without interfering with the finding or decision on any other question;
- (f) direct a new trial on the whole or any part of the decision under appeal, or with respect to some or all of the parties; and
- (g) give any other decision or direction required to resolve the appeal.

Court may dismiss

(2) The Court may dismiss an appeal despite an error of law or fact, a misdirection, an irregularity, or an erroneous ruling on the evidence where

- (a) no substantial wrong or miscarriage of justice has resulted;
- (b) the decision would have been the same despite the error; or
- (c) no significant prejudice has been experienced by any party.

Judgments and Orders

Judgment by consent

62. A respondent may consent to the reversal or variation of the decision under appeal in accordance with the Rules of the Nunavut Court of Justice.

Preparation and signature

63. (1) Unless otherwise ordered, within 10 days of pronouncement of a decision the successful party shall prepare the draft order or judgment and serve it on the other parties, and the other parties must approve or provide objections to the draft within 10 days after service.

Single appeal judge may settle form

(2) The Court may authorize a single appeal judge to settle the form of any order or judgment.

Judge, panel or Registrar may sign

(3) A judgment or order may be signed by the judge or the panel who granted it or by the Registrar.

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

Entry

64. (1) The Registrar shall enter all judgments and orders on the court file, showing the date of entry, and unless otherwise ordered the judgment is effective as if it were a judgment or order of the court appealed from.

Interested person may file

(2) Any interested person may file a copy of the Court's judgment in the court appealed from.

Supreme Court of Canada judgments

65. The Registrar shall

- (a) enter any judgment granted by the Supreme Court of Canada on the file of the Court of Appeal, showing the date of entry; and
- (b) send a copy of the judgment of the Supreme Court of Canada to the clerk of the court appealed from for filing in that court, and the judgment may be acted on as if it were a judgment of that court.

Interest on judgments

66. If a decision awarding a sum of money is reversed or varied, interest is payable on the amount of the appeal judgment from the date that the decision under appeal was pronounced.

PART 7 GENERAL RULES FOR APPEALS

Service of Appeal Documents and Representation

Service of appeal documents

67. (1) A notice of appeal and an application for permission to appeal must be served

- (a) at the address for service provided in the court appealed from as referred to in the Rules of the Nunavut Court of Justice, or
- (b) otherwise as an originating document under the Rules of the Nunavut Court of Justice

Rules of the Nunavut Court of Justice apply

(2) All other materials required or authorized to be served under this Part must be served in accordance with the Rules of the Nunavut Court of Justice.

Lawyer of record and litigation representative

68. Unless otherwise ordered,

- (a) the lawyer of record in the court appealed from continues as the lawyer of record on the appeal until ceasing to be so under the Rules of the Nunavut Court of Justice, and
- (b) a litigation representative in the court appealed from continues in that capacity in the appeal.

Restricted Court Access Orders

Orders restricting access to appeal proceedings

69. (1) A restricted court access order made by the court appealed from continues in force and applies to the appeal or an application for permission to appeal until otherwise ordered by a single appeal judge.

Single appeal judge may make order

(2) A single appeal judge may make a restricted court access order with respect to an appeal or an application for permission to appeal.

Rules for All Filed Materials

Place of filing

70. Unless otherwise directed, an appeal must be carried on, and all material must be filed, at the office of the Registrar in Iqaluit.

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

Appeal Number

71. The Registrar shall assign an appeal number to each appeal and endorse that number and the date of filing on any document filed in the appeal.

Non-compliant appeal materials

72. A single appeal judge may order that appeal materials be dispensed with, varied as to form, or amended in accordance with the Rules of the Nunavut Court of Justice.

Requirements for all documents

73. (1) All materials prepared for an appeal must

- (a) be succinct, legible and divided into a single series of consecutively numbered paragraphs;
- (b) include the names of the parties in a Style of Cause as set out in Form AP-5,
 - (i) as set out in the notice of appeal, unless amended,
 - (ii) listed in the same order in which they were listed in the style of cause in the court appealed from, and
 - (iii) including the status of the party in the appeal and in the court appealed from;
- (c) identify the nature of the material, the name of the party filing it, and that party's status on the appeal;
- (d) provide an address for service;
- (e) provide the name, address and contact information of the person who prepared the material;
- (f) be divided into volumes of approximately 200 pages each; and
- (g) be of paper size Letter-ANSI A (8.5" x 11").

Covers

(2) The Appeal Record, factums, and Extracts of Key Evidence must have a Cover Page in Form AP-6 that includes the name of the Court and the appeal number assigned by the Registrar.

Costs of Appeals

Cost awards

74. (1) Unless otherwise ordered, the successful party in an appeal or an application is entitled to a costs award against the unsuccessful party calculated with reference to Schedule B of these rules, including reasonable disbursements, fees and Goods and Services Tax.

Rules of the Nunavut Court of Justice apply

(2) The Rules of the Nunavut Court of Justice having to do with costs apply to appeals except that the Registrar shall act as the taxing officer.

Scale of costs

(3) Unless otherwise ordered, the scale of costs in an appeal shall be the same as the scale that applies to the order or judgment appealed from.

Fees on Appeal

Fees

75. In every appeal there must be paid to the Registrar or other appropriate person, at the time of filing, the applicable fees specified in

- (a) *Court Fees Regulations*, R-024-2007;
- (b) *Fees and Allowances Regulations*, R-031-96; and
- (c) any other applicable regulation.

Non-compliance

Non-compliance

76. (1) Unless otherwise ordered, a party is not entitled to assess costs or recover disbursements in respect of a procedural step in which the party has

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

- (a) failed to comply with a deadline set out in these rules;
- (b) filed a document that fails to comply in a substantial respect with the requirements of these rules; or
- (c) filed a document that is carelessly or inadequately prepared or that contains illegible material or text.

Single appeal judge or panel may strike from record

(2) In the case of non compliance with a rule, direction or order, a single appeal judge or a panel of the Court may strike from the record any document, including a notice of appeal or cross appeal, or provide directions for the management of the appeal.

Respondent entitled to costs award

(3) If an appeal has been struck by operation of these rules or the provisions of an order or because of the failure of any party to appear when required, or has been deemed to have been struck or abandoned, the respondent is entitled to a costs award for having responded to the appeal.

Interim release

(4) A single appeal judge may order the interim release of the appellant pending the appeal of any order for the imprisonment or other restraint of the liberty of the appellant arising from a civil sanction imposed by the court appealed from.

The Registrar

Duties of the Registrar

77. The Registrar shall perform the duties required by these rules and the Court, including, subject to any direction of the Court,

- (a) establishing and maintaining a court file for each appeal;
- (b) establishing and maintaining the list of pending appeals;
- (c) receiving and filing all appeal materials, having control and custody of them, and distributing them to the judges as required;
- (d) attending in court as required and keeping a record of all proceedings before the Court and its judges, including
 - (i) keeping records of particulars of the appeals heard and the judges in attendance,
 - (ii) identifying the appearing parties and their counsel,
 - (iv) keeping records of the result of the appeal, and
 - (iv) noting the time occupied in hearing;
- (e) keeping proper accounts of money and property received or dispersed by the Court;
- (f) settling and signing judgments and orders in accordance with these rules; and
- (g) at the conclusion of an appeal, returning to the court appealed from any records of that court.

Authority of the Registrar

78. The Registrar may, with or without consulting with a judge,

- (a) where any document presented for filing is irregular, not readily legible or otherwise carelessly or inadequately prepared,
 - (i) accept the document for filing, with or without advising the party presenting the document of the deficiency,
 - (ii) accept the document for filing and note the deficiency on the face of the document,
 - (iii) accept the document for filing on terms, directions or undertakings to be agreed to by the filing party, or
 - (iv) in the case of a significant deficiency that prevents the Registrar from filing the document, or that is likely to prejudice a party or interfere with the disposition of the appeal, reject the document;
- (b) refuse to accept a document for filing, or to perform any other official act, where the instructions to the Registrar are not clear;
- (c) endorse a document as having been filed on the date when the document was first tendered for filing;

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

- (d) subject to any conditions that the Registrar may specify, require personal attendance in an office of the Registrar by a party filing any appeal materials, or accept documents for filing by mail or electronically;
- (e) publish Practice Directions for Electronic Filing, which may specify
 - (i) the type of document that the Registrar will accept for electronic filing, and the procedure for electronic filing,
 - (ii) the format in which the Registrar will accept documents electronically,
 - (iii) the number of paper copies of documents required when electronic filing is utilized, and the distribution of those copies, and
- (i) any other matter that is necessary or convenient to permit electronic filing of documents; and
- (f) bring to the attention of the Court for summary determination any appeal that the Registrar determines is frivolous or vexatious or significantly irregular, or that can otherwise be determined on a summary basis.

Forms

Forms

79. The forms set out in Schedule A may be used with any appropriate modifications.

Repeal

Previous rules repealed

80. The *Rules of the Court of Appeal Respecting Civil Appeals*, Nu. Reg. R-023-2011, are repealed.

Coming into force

Coming into force

81. These Rules come into force on August 1, 2018.

SCHEDULE A

(Subrule 10(1))

**FORM AP-1
CIVIL NOTICE OF APPEAL
NUNAVUT COURT OF APPEAL**

Registrar's stamp:

COURT OF APPEAL FILE NUMBER:
TRIAL COURT FILE NUMBER:
PLAINTIFF/APPLICANT:
STATUS ON APPEAL:
DEFENDANT/RESPONDENT:
STATUS ON APPEAL:

DOCUMENT

CIVIL NOTICE OF APPEAL

APPELLANT'S ADDRESS FOR SERVICE
AND CONTACT INFORMATION:

WARNING

To The Respondent: If you do not respond to this appeal as provided for in the Rules the appeal will be decided in your absence and without your input.

1. Particulars of Judgment, Order or Decision Appealed from:

Date pronounced: _____

Date entered: _____

Date served: _____

Official neutral citation of reasons for decision if any:
(do not attach copy) _____

(Attach a copy of order or judgment: subrule 10(3) of these rules. If a copy is not attached, indicate under item 11 and file a copy as soon as possible: subrule 13(2) of these rules)

2. Indicate where the matter originated:

Nunavut Court of Justice

Official neutral citation of reasons for decision, if any, of the Nunavut Court of Justice:
(do not attach copy) _____

(If originating from an order of the Nunavut Court of Justice, a copy of that order is also required: paragraph 13(1)(c) of these rules)

Board, Tribunal or Professional Discipline Body

Specify Body: _____

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

3. Details of Permission to Appeal, if required (Rule 4 and paragraph 10(3)(a) of these rules)

Permission not required, or Granted:

Date: _____

Justice: _____

(Attach a copy of order, but not reasons for decision.)

4. Portion being appealed (Paragraph 10(2)(c) of these rules):

- Whole, or
- Only specific parts (if specific part, indicate which part):

(Where parts only of a family law order are appealed, describe the issues being appealed, e.g. property, child support, parenting, etc.)

5. Provide a brief description of the issues:

6. Provide a brief description of the relief claimed:

7. Will an application be made to expedite this appeal?

Yes No

8. Could this matter be decided without oral argument? (Subrule 23(2) of these rules)

9. Yes N

10. Are there any restricted court access orders or statutory provisions that affect the privacy status of this file? (Paragraph 10(2)(d) of these rules and rule 69 of these rules)

Yes No

If yes, provide details: _____

(Attach a copy of any order.)

11. 10. List respondent(s) or counsel for the respondent(s), with contact information.

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

If specified constitutional issues are raised, service on the Commissioner and Attorney General is required under s. 59 of the *Judicature Act* and subparagraph 13(1)(c)(viii) of these rules.

12. 11 Attachments (as applicable)

- Order or judgment under appeal if available (not reasons for decision) (subrule 10(3) of these rules)
- Order granting permission to appeal (paragraph 10(3)(a) of these rules)
- Copy of any restricted access order (paragraph 10(2)(d) of these rules)

If any document is not available, it should be appended to the factum, or included elsewhere in the appeal record

(Subrule 10(1))

FORM AP-2

NOTICE OF CIVIL CROSS APPEAL

NUNAVUT COURT OF APPEAL

Registrar's stamp:

- COURT OF APPEAL FILE NUMBER:
- TRIAL COURT FILE NUMBER:
- PLAINTIFF/APPLICANT:
- STATUS ON APPEAL:
- DEFENDANT/RESPONDENT:
- STATUS ON APPEAL:

DOCUMENT

NOTICE OF CIVIL CROSS APPEAL

ADDRESS FOR SERVICE AND CONTACT

INFORMATION OF RESPONDENT/CROSS APPELLANT FILING THIS DOCUMENT:

and CONTACT INFORMATION OF ALL OTHER PARTIES:

TAKE NOTICE THAT ON THE APPEAL the Respondent/Cross Appellant intends to argue that the decision under appeal be varied.

1. Particulars of portions of decision to be varied:

2. Details of Permission to Appeal, if required (rule 4, subrule 5(3) and paragraph 10(3)(a) of these rules).

Permission not required, or Granted:

Date: _____

Justice: _____

(Attach a copy of order, but not reasons for decision.)

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

3. Relief Requested:

APPLICATION

NUNAVUT COURT OF APPEAL

Registrar's stamp:

COURT OF APPEAL FILE NUMBER:

TRIAL COURT FILE NUMBER:

PLAINTIFF/APPLICANT:

STATUS ON APPEAL:

DEFENDANT/RESPONDENT:

STATUS ON APPEAL:

DOCUMENT

APPLICATION OF

(name of party and status on appeal)

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF RESPONDENT/CROSS
APPELLANT FILING THIS DOCUMENT:

and CONTACT INFORMATION OF ALL OTHER PARTIES:

NOTICE TO RESPONDENT(S)

(Indicate name(s) of respondent(s) to this application, and their status on appeal)

NOTICE TO RESPONDENT(S)

WARNING

If you do not come to Court on the date and time shown below either in person or by your lawyer, the Court may give the applicant what it wants in your absence. You will be bound by any order that the Court makes. If you intend to rely on other evidence or a memorandum in support of your position when the application is heard or considered, you must file and serve those documents in compliance with the Rules. (rules 29 and 31 of these rules)

You have the right to state your side of this matter before the Court.

To do so, you must be in court when the application is heard as shown below.

Date: _____

Time: _____

Where _____

Before single judge of the Court (rule 26 of these rules)

panel of the Court (rule 27 of these rules)

Nature of application and relief sought:

1.

Grounds for making this application:

2.

Material or evidence to be relied on:

3.

Applicable acts, regulations and rules:

4.

FORM AP-4

(Subrule 52(1))

DISCONTINUATION OF APPEAL

NUNAVUT COURT OF APPEAL

Registrar's stamp:

COURT OF APPEAL FILE NUMBER:
TRIAL COURT FILE NUMBER:
PLAINTIFF/APPLICANT:
STATUS ON APPEAL:
DEFENDANT/RESPONDENT:
STATUS ON APPEAL:

DOCUMENT

DISCONTINUATION OF APPEAL

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF RESPONDENT/CROSS
APPELLANT FILING THIS DOCUMENT:

and CONTACT INFORMATION OF ALL OTHER PARTIES:

The Appellant(s) discontinues this appeal [*specify whole, or parts discontinued*] against the Respondent(s) [*or name applicable Respondent(s)*].

Dated this ____ day of _____, 20
_____.

NOTE

If you discontinue the appeal, the other party is entitled to costs (rule 52 of these rules) unless the other party has consented to a discontinuance without costs

FORM AP-5

(Paragraph 73(1)(b))

STYLE OF CAUSE

NUNAVUT COURT OF APPEAL

Registrar's stamp:

COURT OF APPEAL FILE NUMBER:
TRIAL COURT FILE NUMBER:
PLAINTIFF/APPLICANT:

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

STATUS ON APPEAL:
DEFENDANT/RESPONDENT:
STATUS ON APPEAL:

DOCUMENT _____
(*type of document*)

(*name of party and status on appeal*)

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF RESPONDENT/CROSS
APPELLANT FILING THIS DOCUMENT:

and CONTACT INFORMATION OF ALL OTHER PARTIES

FORM AP-6 (Subrule 73(2))

COVER PAGE

NUNAVUT COURT OF APPEAL

Registrar's stamp:

COURT OF APPEAL FILE NUMBER:
TRIAL COURT FILE NUMBER:
PLAINTIFF/APPLICANT:
STATUS ON APPEAL:
DEFENDANT/RESPONDENT:
STATUS ON APPEAL:

DOCUMENT

COVER PAGE

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF RESPONDENT/CROSS
APPELLANT FILING THIS DOCUMENT:

and CONTACT INFORMATION OF ALL OTHER PARTIES:

Appeal from the Decision of

The Honourable Mr./Madam Justice _____

Dated the _____ day of _____, 20____ Filed the _____ day of __, 20____

Title of Book (including name and status on appeal of filing party), volume number, and page numbers and/or tabs included in volume

Party's name, counsel's name,
all

Contact information of

address, telephone and fax number
 appeal of party filing this document.

other parties to the

For Appeal Record add name, address and telephone and fax numbers of the individual or organization that prepared the appeal record, and include:

The appeal record has been prepared in

electronic format

document format

SCHEDULE B

(Subrule 74(1))

COSTS OF APPEAL

Unless the Court otherwise orders, matters which have no monetary amounts, for example, injunctions, are to be dealt with under Column 1.

Item Number	Description	Column 1	Column 2	Column 3	Column 4
		Up to and including \$75,000	Over \$75,000 up to and including \$200,000	Over \$200,000 up to and including \$675,000	Over \$675,000 up to and including \$2 million
1.	All steps taken to file Notice of Appeal and speak to the list	270	400	540	675
2. (a)	Preparation for appeal				
(b)	Preparation of factum	1,350	2,700	5,400	8,100
(c)	All other preparation	675	1,350	2,700	4,050
3.	Appearance to argue before Appeal Court for first half day or part of it.				
(a)	First counsel	1,350	2,025	2,700	3,375
(b)	Second counsel (when allowed by the Court)	675	1,000	1,350	1,685

Rules of the Nunavut Court of Appeal Respecting Civil Appeals

Appearance to argue before Appeal Court for each full half day occupied after the first half day.						
First counsel	675	1,000	1,485	1,755	2,160	
Second counsel (when allowed by the Court)	-	500	675	875	1,080	
Appearance on contested Application before Appeal Court, including brief	1,000	1,685	2,360	2,700	3,375	

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