COURT OF APPEAL
FOR BRITISH COLUMBIA

CIVIL & FAMILY PRACTICE DIRECTIVES & NOTES

2019 May 24

TABLE OF CONTENTS

Civil & Family Practice Directives & Notes

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Note (Civil and Criminal)

Title: Addressing the Court

Issued: 24 October 2014

Effective: Immediately

Cite as: *Addressing the Court* (Civil & Criminal Practice Note, 24 October, 2014)

This practice note deals with introducing and addressing either a division of the Court of Appeal, a Justice in chambers, or a Registrar. It is primarily for the benefit of more recently called members of the legal profession who are, or will be, making their first appearances before the Court, but may also be of use to those who are self-represented.

The long-standing practice in the Court is as follows:

- The appellant(s) or their counsel sit on the left side of the courtroom (facing the bench) and the respondent(s) or their counsel sit on the right;

- Parties rise when the Court is called to order and the judges enter the courtroom. Parties bow when the judges bow and then resume sitting;

- After a case is called, the appellant(s) or their counsel stand and make introductions, indicating for whom they act, and then resume sitting;

- If the appellant is represented by more than one counsel, senior/lead counsel introduces himself or herself and then introduces other counsel, who stand while being introduced; senior/lead counsel resume sitting after introductions have been completed.

- If there are separately represented appellants, then the introductions of counsel for each appellant should, in turn, follow, in accordance with the practice set out above;

- The introductions of the respondent(s) or their counsel follow those of the appellant(s), in accordance with the above practice;

- The introductions of the intervenor(s) or their counsel follow those of the respondent(s), in accordance with the above practice;
- After introductions have been completed, the presiding judge will indicate how the Court wishes to proceed. When called upon, parties should move to the podium to address the Court;

- Only one person should be standing and addressing the Court at any given time.

On motions or applications before the Court or on chambers matters, the foregoing should be read with “applicant” replacing “appellant”, and “respondent” being the respondent on the motion or application.

As in the Supreme Court, Justices of the Court of Appeal are referred to as “my lord” or “my lady” or collectively in plural form. In a Registrar’s hearing, the Registrar is addressed as “your honour.”

_____
Timothy R. Outerbridge
Registrar of the Court of Appeal of British Columbia

History:

This is a new practice note.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Note (Civil & Criminal)

Title: Adjournment of Appeals

Issued: 19 September 2011

Effective: Immediately

Cite as: *Adjournment of Appeals* (Civil & Criminal Practice Note, 19 September 2011)

The practice of the Registry is to contact all counsel or self represented litigants approximately three weeks in advance of the hearing of the appeal to confirm the time estimate, to ensure that all materials are filed and to confirm that the appeal will proceed as scheduled. At this time, any concerns with the date, time scheduled or potential adjournments should be communicated to the scheduler.

The scheduler closely manages the hearing list because the time for the hearing of each appeal is set aside specifically for that appeal. There are no other cases waiting to proceed if an appeal is adjourned at the last minute.

Unforeseeable circumstances such as illness of counsel or death of a family member are legitimate reasons for seeking last minute adjournments. However, counsel's lack of preparation, late filings, or personal convenience are not. If you do not have one of these good reasons to adjourn your hearing, you will have to appear before the Court to explain your circumstances, even if you have the consent of the other parties.

In civil appeals, counsel and the parties setting the appeal for hearing must file a certificate of readiness within one year of filing the applicable notice of appeal or notice of application for leave to appeal. A notice of hearing must be filed two months after a certificate of readiness is filed. The present fixed date system for hearing appeals depends on having appeals proceed in a timely way in accordance with the date set in the notice of hearing.

The Court respectfully reminds counsel and self represented litigants of these matters so that sitting dates will not be lost.

"Jennifer L. Jordan"

Registrar of the Court of Appeal of British Columbia

History:

Replaces the Notice to the Profession titled *Adjournment of Appeals*, dated 22 January 2010 that replaced the Notice to the Profession titled *Lost Court Days,* dated 7 June 2005.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Note (Civil)

Title: Booking Civil Chambers Applications

Issued: 28 April 2017

Effective: 8 May 2017

Cite as: *Booking Civil Chambers Applications* (Civil Practice Note, 8 May 2017)

There is currently no requirement for counsel to communicate with the registry to determine whether a chambers list is full prior to filing a notice of motion returnable on a particular day. However, a chambers list may be closed by the chambers scheduler if too many applications are filed.

A practice has evolved where counsel call the registry to confirm the list is still open or, inconveniently to all, file a motion that must be rescheduled to an open list.

The Court will therefore start publishing a chambers calendar on the website that will be updated each day shortly after the registry closes at 4:00pm, at which time the chambers scheduler will evaluate and close any lists.

Accordingly, parties may book and file a motion returnable on any open day in the calendar without a need to call or otherwise communicate with the registry. This practice note does not cover applications that are set by the Associate Registrar (such as an application to vary an order of a justice).

_____

Registrar T.R. Outerbridge

History:

This is a new practice note.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Note (Civil)

Title: Case Management of Family Law Appeals

Issued: 28 February 2018

Effective: Immediately

Cite as: *Case Management of Family Law Appeals* (Civil Practice Directive, 28 February 2018)

Family law appeals may be referred to case management where deadlines are missed or where the Court feels the appeal would benefit from case management. Parties may also write to the registrar to request case management.

Parties are also reminded of the availability of the settlement conference process, outlined in *Judicial Settlement Conferences* (Civil Practice Directive, 27 June 2014).

_____

The Honourable Chief Justice Bauman
for the Court of Appeal for British Columbia

History:

Replaces *Family Law Appeals* (Civil Practice Directive, 19 September 2011), which replaced the untitled Notice to the Profession concerning family law appeals, dated 12 January 2004.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil & Criminal)

Title: Chambers Applications by Telephone or Videoconference

Issued: 19 September 2011

Effective: Immediately

Cite as: *Chambers Applications by Telephone or Videoconference* (Civil & Criminal Practice Directive, 19 September 2011)

From time to time, counsel ask that an application in chambers be heard on the conference telephone or by videoconference. These have been utilized successfully to minimize expense. An alternate way of saving the cost of counsel coming to Vancouver is to direct that argument be submitted in writing.

Telephone or videoconference calls are arranged ahead of time; sometimes the lawyers are in one office; sometimes they are in different offices. The registry court clerk puts the call through from the courtroom.

1. All telephone or videoconference hearings are to be scheduled at the discretion of the judge hearing the matter.

2. The person making the request for a telephone or video conference shall file a written request and all motion material at least 7 days before the matter is scheduled to be heard. The applicant must make it clear in the request why the matter needs to be heard remotely.

3. The judge who will be hearing the matter will review the filed material and decide whether or not the matter is to proceed by telephone or videoconference.

4. If the matter is to proceed by personal appearance in chambers, the applicant will be informed as soon as is possible in order that travel arrangements can be made.

5. The judge will indicate the time that a telephone or videoconference will take place.

6. The scheduler will contact counsel, indicating the decision of the judge on the request for a remote hearing.

"The Honourable Chief Justice Finch"
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive titled *Chambers Application by Telephone* dated 12 December 2005 and the civil and the criminal Practice Notes titled *Request for Telephone/Videoconference Hearing - Court of Appeal Chambers (Civil and Criminal Matters)* dated May 2006.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil & Criminal)

Title: Citation of Authorities

Issued: 30 May 2013

Effective: Immediately

Cite as: *Citation of Authorities* (Civil & Criminal Practice Directive, 30 May 2013)

Parties preparing factums or submissions to the Court of Appeal are asked to observe the following:

I. Citation of Authorities

1. The Court requires the use of the citation standards in the *Canadian Guide to Uniform Legal Citation* (7th Edition), known as the *McGill Guide.* Where there is an inconsistency between this practice directive and the *McGill Guide*, this practice directive prevails.

2. Always use periods within citations where omitted by the *McGill Guide.* Cite as precisely as possible to all authorities, for example, to paragraph or section numbers rather than pages or chapters. Never cite to court summaries or headnotes, as they do not form part of a court's judgment.

3. Cite Canadian cases to their neutral citation first. Where no neutral citation is available, cite to a printed reporter or electronic service first. Additional (parallel) citations are optional. Use no more than two.

   ✓ *Green v. Red,* 2013 BCCA 212 at para. 10
   ✓ *Green v. Red* (1977), 3 B.C.L.R. 20 at 21 (Co. Ct.)
   ✓ *Green v. Red,* 2011 BCSC 212 at para. 10, [2011] 2 W.W.R. 212
   x *Green v. Red,* [2001] S.C.R. 3, 2001 SCC 1

4. If a case is from outside Canada or is not easily found or available at all electronically, provide at least one parallel citation.

   ✓ *Green v. Red,* [1996] SGCA 78, 1 S.L.R.(R) 212 at 213
   ✓ *Green v. Red,* [1925] 4 D.L.R. 212, 31 W.L.R. 212 at 213 (B.C.C.A.)

5. Omit the term “(available on…)” when using only a neutral citation, contrary to the *McGill Guide*.

   ✓ *Green v. Red,* 2011 BCSC 2012
   x *Green v. Red,* 2011 BCSC 212 at para. 10 (available on WL Can)

6. Omit abbreviated publisher information from the citation when citing Canadian authorities to commonly used electronic services such as CanLII, Quicklaw, or Westlaw Canada.

   ✓ *Red v. Green,* 2007 CarswellBC 212 (C.A.)
   x *Red v. Green,* 2007 CarswellBC 212 (C.A.) (WL Can)

7. When relying on an authority cited by another party, always cite to the version within that party’s factum or book of authorities and omit it from your book of authorities. To eliminate unnecessary flipping between books, the Court strongly prefers joint books of authority and/or joint appeal books.

8. Ensure any version of an authority included in a book of authorities matches the format of the version cited in the parties’ factums, particularly with respect to pagination and paragraph numbers.

9. Use the following format for unreported judgments.

   ✓ *Green v. Red* (30 April 1981), Victoria 79/0123 (B.C.S.C.)

10. When citing a case decided in chambers, include the term “Chambers” or "in Chambers" at the end of the citation within any bracketed information.

    ✓ *Green v. Red* (1986), 1 B.C.L.R. (2d) 190 (C.A. Chambers)
    ✓ *Green v. Red,* 2010 BCCA 212 (in Chambers)

11. Add the name of the judge at the end of the citation only when relevant.

    ✓ *Green v. Red* (1986), 1 B.C.L.R. (2d) 212 (C.A.), Purple J.A., dissenting

12. Do not give the full citation to the rules of the various courts in British Columbia.

    ✓ *Supreme Court Civil Rules,* R. 15-1

- ✓ *Supreme Court Family Rules,* R. 15-1
- ✓ *Court of Appeal Rules,* R. 5
- ✓ *British Columbia Court of Appeal Criminal Appeal Rules, 1986,* R. 5
- x *Supreme Court Civil Rules*, B.C. Reg. 168/2009, R. 15-1

13. Use the following format for books that are continually updated, such as loose-leaf services. Do not provide the "date of consultation," contrary to the *McGill Guide*. Include the last revision update instead.

    - ✓ J.D. Green, *The Law of Tort* (Toronto: Thomson Reuters, 2011) (loose-leaf updated 2013, release 20), ch. 5 at 71.

II. Stylistic Considerations

14. Use 12-point Arial font for all text, including citations and footnotes. With the exception of quotations from authorities or enactments, all submissions to the Court, including footnotes (when used), must be one-and-a-half spaced. Do not use endnotes.

15. Do not capitalize the names of documents, the titles of pleadings, or the status of litigation parties unless required in a court form.

    - ✓ "The appellant's notice of civil claim states a power of attorney…"
    - x "The Appellant's Notice of Civil Claim states a Power of Attorney…"

16. Capitalize "court" only when it refers to a specific court.

    - ✓ "The British Columbia Supreme Court held in *Green* that …"
    - ✓ "The Court in *Green* …"
    - ✓ "The case before this Court is about …"
    - x "There is no Court in Canada except the supreme court of Canada…"
    - x "No Courts have yet adopted…"

17. Capitalize "judge" or "justice" only when naming a particular judge or justice. Do not capitalize "judge" or "justice" in descriptive phrases.

    - ✓ "Justice Smith wrote in *Green v. Red* that..."
    - ✓ "The trial judge…"
    - x "The Chambers Judge …"

18. When including citations within paragraphs, do not use *supra*, *ibid.,* hereinafter or similar terms. When referring to an authority several times, use a short form in brackets, but only when the authority must be distinguished from other, similarly named authorities. Otherwise, just use a shortened form in subsequent references.

    ✓ *The Red Act of British Columbia,* R.S.B.C. 1995, c. 22, is referred to in both *Green v. Red*, 2007 BCSC 543 ("*Green #1*") and *Green v. Red,* 2007 BCSC 212 ("*Green #2*"). In both *Green #1* and *Green #2, the Red Act* was upheld as constitutional.

19. Avoid overly formalistic language, such as "this Honourable Court," "hereinafter," "heretofore," "aforesaid," or "learned". Use Latin phrases only when necessary.

20. When printing or copying authorities, provide legible and/or enlarged authorities of at least 12-point font, printed on both sides of the page.

21. The Court encourages the use of hyperlinks in electronic versions of factums. Hyperlink Supreme Court of British Columbia or Court of Appeal for British Columbia case citations to the Superior Courts judgment database or CanLII. Hyperlink Supreme Court of Canada case citations to the LexUM website.

22. When referring to a practice directive or practice note, follow the citation style prescribed on each directive or note.

"The Honourable Chief Justice Finch"
for the Court of Appeal of British Columbia

History:

Replaces *Citation of Authorities* (Civil & Criminal Practice Directive, 19 September 2011) which replaced the civil and criminal Practice Directives titled *Citation of Authorities,* both dated 18 June 2007.

British Columbia Court of Appeal

Practice Directive (Civil)

Title: Commencing an Appeal When Uncertain if Leave to Appeal is Required

Issued: 3 May 2017

Effective: 8 May 2017

Cite as: *Commencing an Appeal When Uncertain if Leave to Appeal is Required* (Civil Practice Directive, 8 May 2017)

The Court will no longer entertain applications for directions as to whether leave to appeal is required.

If a party is unsure if leave to appeal is required, the party should file a Notice of Application for Leave to Appeal and seek leave to appeal.

If leave to appeal is not required, the presiding justice may order that the Notice of Application for Leave to Appeal stand as a Notice of Appeal along with any necessary extension(s) of time.

_____

The Honourable Chief Justice Bauman
for the Court of Appeal of British Columbia

History:

Replaces the Practice Directive titled *Commencing an Appeal When Uncertain if Leave to Appeal is Required,* dated 19 September 2011, which replaced *Notices of Appeal and Notices of Application for Leave to Appeal,* dated 5 May 2008 and the accompanying *Explanatory Note,* dated 15 May 2008.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil & Criminal)

Title: Condensed Books

Issued: 19 September 2011

Effective: Immediately

Cite as: *Condensed Books* (Civil & Criminal Practice Directive, 19 September 2011)

Counsel may prepare in any appeal a Condensed Book, to assist the Court of Appeal during the oral hearing of the appeal.

The Condensed Book may contain documents essential to the hearing, including those excerpts from the evidence, exhibits and authorities to be referred to by the party in its argument. It should be indexed in a way that permits the Court to locate the documents referred to in the party's factum.

Counsel shall prepare a sufficient number of copies of the Condensed Book for the division hearing the appeal and for all parties to the appeal. The Condensed Books for the division shall not be filed in the Registry but handed to the court clerk at the commencement of the appeal.

Any extracts of transcripts, affidavits, exhibits or authorities included in a Condensed Book shall include only as much material as is required to understand the context of the key portions of the extract.

The covers of the condensed book of the appellant shall be buff in colour, those of the respondent green, and those of an intervenor shall be yellow.

"The Honourable Chief Justice Finch"
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive titled *Condensed Books,* dated 26 March 2007.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil)

Title: Consent Orders

Issued: 28 February 2018

Effective: Immediately

Cite as: *Consent Orders* (Civil Practice Directive, 28 February 2018)

Section 10(2)(c) of the *Court of Appeal Act* allows a justice to make an order with the consent of all parties to an appeal. Parties frequently submit consent orders for signature without a letter explaining why the Court ought to grant the order.

Where a consent order involves the granting of substantive relief (e.g. a stay of proceedings or the posting of security for costs), the party filing the order must submit a letter copied to all parties explaining why the Court ought to endorse the order. Where no such letter is submitted, the Registry may reject the order for filing. If the parties are uncertain whether the order involves substantive relief, they should submit a letter as described.

In granting a consent order, the Court is not passing judgment on the merits of the matter.

_____
The Honourable Chief Justice Bauman
for the Court of Appeal for British Columbia

History:
This is a new Practice Directive.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Note (Civil & Criminal)

Title: Correction of Books Filed with Court

Issued: 2 August 2013

Effective: Immediately

Cite as: Correction of Books Filed with Court (Civil & Criminal Practice Note, 2 August 2013)

An inordinate amount of staff time is currently being expended in accommodating requests of counsel to amend documents or books filed with the Court.

The Court will no longer allow parties to make changes to filed documents or books by substituting pages or making amendments.

If there are changes or amendments to filed documents or books that require the Court's attention, use the following methods:

1. Copying all parties, forward a letter to the Court of Appeal registry drawing the Court's attention to any significant errors made; or

2. By consent or by order of a Justice, file and serve an amended document or book; or

3. If consent cannot be obtained, seek leave to adduce amended documents or books at the appeal or in chambers.

If there is a change in counsel and new counsel would like to file a new factum, this may also be done by consent or by order of a justice. The original filed factum will be returned.

This Practice Note does not apply to delivering a lower court order to the registry for inclusion in an Appeal Record that has already been filed.

"Jennifer L. Jordan", Registrar

History: This is a new Practice Note

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil)

Title: Costs

Issued: 30 May 2013

Effective: Immediately

Cite as: *Costs* (Civil Practice Directive, 30 May 2013)

The purpose of this practice directive is to explain the Court of Appeal's practice and the parties' responsibilities with respect to awards of costs. An award of costs in the Court of Appeal is governed by s. 23 of the *Court of Appeal Act* which reads:

> **Costs**
> **23** Unless the court or a justice otherwise orders, the party who is successful on an appeal is entitled to costs of the appeal including the costs of all applications made in the appeal.

The Court of Appeal does not usually refer to costs in reasons for judgment. Section 23 of the *Act* presumes that a successful party is entitled to costs. When preparing a court order arising from an appeal, the successful party must insert a term for costs in the final order. Court forms provided in the *Court of Appeal Rules* all contain a direction for costs.

If the parties cannot agree on costs, any party may send a letter to the Registrar with copies to all parties, indicating the desire to address the question of costs and briefly summarising the dispute. The parties may set out a proposed schedule for submissions in the letter or the Registrar will arrange a timetable for those submissions.

When the issue of costs is raised at the hearing before the Registrar to settle the order, the Registrar may settle the dispute by reference to s. 23 of the *Act* or may refer the issue to the division which heard the appeal. The Registrar will not assess a bill of costs in the absence of a costs term included in the order. If a party has mistakenly entered an order without a direction for costs, it is permissible to apply pursuant to the slip rule (r. 50) to amend the order and provide for costs.

Counsel are reminded of the particular provisions for costs in s. 37 of the *Class Proceedings Act*.

"The Honourable Chief Justice Finch"

for the Court of Appeal of British Columbia

History: This is a new Practice Directive

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil & Criminal)

Title: Court of Appeal Practice Directives

Issued: 19 September 2011

Effective: Immediately

Cite as: *Court of Appeal Practice Directives* (Civil & Criminal Practice Directive, 19 September 2011)

The Court of Appeal issues Practice Directives pursuant to Rule 58(1) of the *Court of Appeal Rules* and Rule 2(2) of the *British Columbia Court of Appeal Criminal Appeal Rules, 1986*.

Practice Directives are intended to provide guidance in the conduct of an appeal. Practice Directives do not have the same force of law as the formal enactments in the *Court of Appeal Act*, *Criminal Code*, and *Court of Appeal Rules and British Columbia Court of Appeal Criminal Appeal Rules, 1986*, but they express the view of the Court regarding matters of practice and procedure. Litigants and practitioners are expected to comply with them or show good reason for doing otherwise.

"The Honourable Chief Justice Finch"
for the Court of Appeal of British Columbia

History:

Replaces the untitled civil Practice Directive, dated 6 December 2007 and the untitled criminal Practice Directive, dated 21 March 2007.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Note (Civil & Criminal)

Title: Court Sittings in Kamloops and Kelowna

Issued: 27 June 2014

Effective: Immediately

Cite as: *Court Sittings in Kamloops and Kelowna* (Civil & Criminal Practice Note, 27 June 2014)

The Court of Appeal has for some years scheduled sittings in Kamloops and Kelowna. For the last two years hearings were scheduled in these communities when requested by counsel.

Because appeals are frequently of significance to the local community, the Court is of the view that appeals originating from Kamloops, Kelowna, Vernon, Penticton and Salmon Arm will be heard at either Kamloops or Kelowna, unless the Registrar directs the appeal to be heard in Vancouver.

Parties requesting a Vancouver hearing should do so by letter to the Registrar outlining reasons that outweigh the interest of the local community in hearing the appeal. If other parties disagree, they should provide a brief letter outlining their position.

When an appeal originating in one of these locations is ready for hearing, the appellant should contact the Court Scheduler (604-660-2865) to schedule the appeal. If the parties wish to adjourn or reschedule a hearing, they should immediately notify the Court Scheduler with at least one week's notice.

Parties in other locations in British Columbia may also request a local hearing following the procedures listed above. Those hearings shall be conducted in Kamloops, Kelowna, or Prince George.

Any comments on the procedure should be addressed to the Registrar.

_____

Jennifer L. Jordan,
Registrar of the Court of Appeal of British Columbia

History:

Replaces *Court Sittings in Kamloops, Kelowna and Prince George* (Civil & Criminal Practice Note, 17 April 2012), which replaced the practice note titled *Court Sittings in Kamloops, Kelowna and Prince George* dated 8 September 2010.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil & Criminal)

Title: Electronic Media in Appeal Books

Issued: 13 May 2016

Effective: Immediately

Cite as: *Electronic Media in Appeal Books* (Civil & Criminal Practice Directive, 13 May 2016)

The Court is seeing an increase in appeal book contents filed on CDs, DVDs, or flash drives. Discs are often enclosed in paper sleeves within the appeal book and are poorly labeled, creating a risk of loss or damage. As appeal books are archival, the Court must provide directions regarding the use of electronic media, which can degrade and become unreadable over time. The Chief Justice therefore directs that electronic media accompanying an appeal book must meet the following requirements:

1. Only CDs or DVDs may be used. The exhibits on the disc(s) must be only multimedia that cannot be legibly reproduced in paper (such as video and audio). Other media that can be legibly reproduced on paper, such as documents, photographs, and diagrams, must always be clearly printed or copied, in colour if necessary (see further instructions in Form 12).

2. Where possible, only one disc should be filed per set of paper appeal books or joint appeal books. The index to the appeal books must list any accompanying CD(s) or DVD(s). At the page in the appeal book where the multimedia item would be located there must be a photocopy of the clearly labelled CD or DVD that contains the item.

3. Files on CD(s) or DVD(s) must be named with the Court of Appeal file number, book, exhibit number(s), and a short description: e.g. “CA12345 - Appellant’s Appeal Book - Exhibit 12 - video of interview with appellant.avi”.

4. On filing, any CDs or DVDs accompanying a set of paper appeal books must be contained in jewel cases. Both the jewel case(s) and disc(s) must be labeled with the file number, name of the book, exhibit number(s), and disc number: e.g. “CA12345 - Appellant’s Appeal Book - Exhibits 2, 3, 12, 28 - DVD 1 of 2”. Use only water-based markers and do not apply adhesive labels to any discs.

If materials are filed in violation of this practice directive, the Registrar may cancel the filing of the appeal book or require that it be corrected.

"The Honourable Chief Justice Bauman"
for the Court of Appeal of British Columbia

History: This is a new Practice Directive

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil & Criminal)

Title: Expedited Appeals

Issued: 12 December 2011

Effective: Immediately

Cite as: *Expedited Appeals* (Civil & Criminal Practice Directive, 12 December 2011)

The Court of Appeal wishes to reduce unnecessary delays in the hearing of appeals, especially those appeals which may delay the hearing of a trial. Without restricting the power of the Court, or a justice, to give directions for expediting an appeal at any time, the Court adopts the following protocol for expediting appeals.

Any party named in an appeal may request that an appeal be expedited. Where the request is by the consent of all parties, the party making the request shall contact the Registrar by telephone or in writing to arrange for a hearing date and, after being provided with a hearing date, shall provide the Registrar with a proposed schedule for the filing of such materials as are necessary for the hearing of the appeal.

Where the request for an expedited appeal is not by consent, the party making the request shall do so by letter directed to the Registrar, succinctly stating the following:

1. the nature of the appeal;

2. the reason for the request;

3. a list of dates for the proposed hearing and the time required; and

4. the proposed terms for expediting the hearing, including the content of and dates for filing the record, appeals books, transcripts of evidence, factums, and/or such other material as may be necessary for the proper hearing of the appeal.

The request must be copied to the other parties to the appeal who, if they are not consenting to the request, should promptly file a succinct response setting forth their position.

The Registrar shall refer the request to a justice who may make such order or give such directions as he or she considers necessary or expedient, with or without an oral hearing.

This Practice Directive does not apply to appeals regarding the international abduction of children, which is the subject of a separate Practice Directive.

"The Honourable Chief Justice Finch"
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive, *Expediting Interlocutory Appeals* (Civil Practice Directive, 19 September 2011), which replaced the Notice to the Profession titled *Expediting Interlocutory Appeals,* dated 2 February 2000.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Note (Civil)

Title: Filing Written Argument in Court of Appeal Chambers

Issued: 1 March 2012

Effective: Immediately

Cite as: *Filing Written Argument in Court of Appeal Chambers* (Civil Practice Note, 1 March 2012)

The Court is aware that, even when there is no requirement for written argument, some parties will rely on written argument in chambers. To allow for consistent and fair use of written argument in chambers, parties are asked to:

1. Limit their written argument to three (3) pages or less;

2. For applicants, file and serve their written argument on the responding parties at the same time as the notice of motion and supporting materials. For respondents, file and then serve written argument on the applicants no later than noon the business day preceding the date set for the hearing.

The use of written argument in chambers outside the requirements of the *Court of Appeal Rules, British Columbia Court of Appeal Criminal Appeal Rules,* or *Court of Appeal Act* is entirely at the discretion of counsel. The within Practice Note is not an order or direction encouraging the use of written argument in chambers.

"Jennifer L. Jordan"
Registrar of the Court of Appeal of British Columbia

History:

Replaces *Filing Written Argument in Court of Appeal Chambers* (Civil & Criminal Practice Note, 19 September 2011)

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil & Criminal)

Title: Five Justice Divisions

Issued: 3 February 2012

Effective: Immediately

Cite as: *Five Justice Divisions* (Civil & Criminal Practice Directive, 3 February 2012)

When counsel wish to have a five-justice division convened to hear an appeal, reasons for the request shall be set out in writing, addressed to the Registrar, after the factums have been filed. Opposing counsel shall state their position on the request, also in writing, addressed to the Registrar. This should be done within five business days of the original request. While the Court will always try to accommodate counsel, because of the difficulties in the allocation of judicial resources, requests for a five-justice divisions should be made at least six weeks before the scheduled hearing date of the appeal. The request will be forwarded to the Chief Justice, for consideration by the Chief Justice in consultation with the Court.

"The Honourable Chief Justice Finch"
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive titled *Five Justice Divisions,* dated 12 December 2005, amended 8 September 2010 and reissued 19 September 2011.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Note (Civil & Criminal)

Title: Frequently Cited Authorities

Issued: 28 September 2018

Effective: 12 October 2018

Cite as: *Frequently Cited Authorities* (Civil & Criminal Practice Directive, 28 September 2018)

Pursuant to Rule 40(9) of the *Court of Appeal Rules*, the following are lists of authorities that the Court does not require the parties to reproduce fully in the book of authorities. Instead, where one of these authorities is being relied upon, the Court of Appeal requires that the party reproduce only the headnote and the passage relied upon in the book of authorities. The authorities are listed alphabetically.

1. Civil Case List

Baker v. Canada (Minister of Citizenship and Immigration), [1999] 2 S.C.R. 817

Benhaim v. St-Germain, 2016 SCC 48

Clements v. Clements, 2012 SCC 32

Dunsmuir v. New Brunswick, 2008 SCC 9

Housen v. Nikolaisen, 2002 SCC 33

Hunter v. Southam Inc., [1984] 2 S.C.R. 145

R. v. Imperial Tobacco, 2011 SCC 42

Moge v. Moge, [1992] 3 S.C.R. 813

Rizzo v. Rizzo Shoes Ltd., [1998] 1 S.C.R. 27

R.J.R. – MacDonald Inc. v. Canada (Attorney General), [1994] 1 S.C.R. 311

Sattva Capital Corp. v. Creston Moly Corp., 2014 SCC 53

2. Criminal Case List

Palmer v. The Queen (1979), [1980] 1 S.C.R. 759

R. v. Gagnon, 2006 SCC 17

R. v. Gladue, [1999] 1 S.C.R. 688

R. v. Grant, 2009 SCC 32

R. v. Ipeelee, 2012 SCC 13

R. v. Jordan, 2016 SCC 27

R. v. Lacasse, 2015 SCC 64

R. v. Lohrer, 2004 SCC 80

R. v. M. (C.A.), [1996] 1 S.C.R. 500

R v. Oakes, [1986] 1 S.C.R. 103

R. v. Proulx, 2000 SCC 5

R. v. R.E.M., 2008 SCC 51

R. v. Sheppard, 2002 SCC 26

R. v. W.(D.), [1991] 1 S.C.R. 742

R. v. Yebes, [1987] 2 S.C.R. 168

3. Aboriginal Case List

Delgamuukw v. British Columbia, [1997] 3 S.C.R. 1010

Guerin v. The Queen, [1984] 2 S.C.R. 335

Haida Nation v. British Columbia (Minister of Forests), 2004 SCC 73

R. v. Sparrow, [1990] 1 S.C.R. 1075

R. v. Van der Peet, [1996] 2 S.C.R. 507

Tsilhqot'in Nation v. British Columbia, 2014 SCC 44

_____
The Honourable Chief Justice Bauman
for the Court of Appeal for British Columbia

History:

Replaces: Frequently Cited Authorities (Civil & Criminal Practice Note, 21 October 2011)

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil & Criminal)

Title: Guidelines for Protecting Privacy Interests in Reasons for Judgment

Issued: 19 September 2011

Effective: Immediately

Cite as: *Guidelines for Protecting Privacy Interests in Reasons for Judgment*

(Civil & Criminal Practice Directive, 19 September 2011)

1. The principle of open justice is a cornerstone of our judicial system. There are, however, times when the privacy interests of a litigant outweigh the public interest of open justice.

2. The need to protect the privacy of participants in the judicial system has led to statutory and common law restrictions on publication of certain facts or information. Where such restrictions apply, commercial case law reporters have traditionally assumed the task of editing reasons for decision before publication to ensure compliance with the law.

3. Publication of decisions by the courts over the internet has raised new privacy issues that must be addressed by the courts and the judges. Decisions involving family law matters are particularly sensitive. Courts in Canada have developed different solutions for protecting the privacy of the parties and others involved in such litigation. Some courts do not publish family law decisions at all; others publish only headnotes, using initials; while others publish the decisions with full names.

4. In 2002, the Court of Appeal decided to continue to publish family law decisions on our website, using initials to identify the parties in the style of cause and the body of the decision. It soon became apparent that using initials made identifying cases and conducting family law research difficult. In October 2003, the Court unanimously approved the return to the use of full names in family law judgments, except where otherwise precluded by law, with the recommendation that judges be encouraged to edit their decisions by including in the decision only personal information which is relevant to the decision being made. While the preparation of reasons for judgment is a discretionary matter and unique to each judge, some guidance can be provided to assist in the task. Four main objectives

have been identified for each judge to consider when preparing reasons for judgment:

1. Full compliance with the law;

2. Openness of the judicial system;

3. Privacy interests of the litigant;

4. Cogency of the reasons for judgment;

5. In addition to these principles, the following considerations may also be helpful in editing decisions for privacy concerns:

    a) The presence of personal data (e.g. address, account numbers) and personal acquaintances' information (e.g. personal data of parents, workplace, school) in a decision represents a high risk of violating privacy concerns;

    b) With respect to cogency of the reasons for decision, specific factual information (names of communities, accused persons or persons acting in an official capacity) tends to have little or no legal relevance in and of itself, while general factual information (age, occupation, judicial district of residence) tends to be relevant;

    c) The presence of general factual information in a decision tends to represent a low risk of identification of a person if personal data (e.g. name, address) and personal acquaintances have been removed.

    d) As indicated, each judge is independent and has complete discretion in preparing their reasons for judgment. These items are presented for guidance purposes only.

"The Honourable Chief Justice Finch"
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive titled *Guidelines for Protecting Privacy Interests in Reasons for Judgment,* dated 29 June 2004.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil)

Title: Hague Protocol for Appeals Regarding the Inter-jurisdictional Abduction of Children, including international abductions engaging The 1980 Hague Convention on the Civil Aspects of International
Child Abduction (the "Hague Convention")

Issued: 19 September 2011

Effective: Immediately

Cite as: *Hague Convention Appeals* (Civil Practice Directive, 19 September 2011)

1. In recognition of the importance of fast-tracking appeals involving the inter-jurisdictional abduction of children, including international abductions which engage the *Hague Convention*, this Court has adopted the following protocol for expediting appeals raising this issue.

2. Any appellant who proposes to raise an issue regarding the inter-jurisdictional abduction of children, including international abductions engaging the Hague Convention, is requested to provide a letter to the registry when filing the Notice of Appeal/Application for Leave to Appeal, advising the Registrar that the appeal raises this issue and asking that the appeal be expedited.

3. If an appellant does not raise the issue and the respondent is of the view that the issue should be raised, then, on receiving the Notice of Appeal/Application for Leave to Appeal, the respondent is requested to file a letter with the Notice of Appearance, advising of the issue and asking for an expedited appeal.

4. Upon receiving such letter, the Registrar shall refer the matter to a justice for a pre-hearing conference. A pre-hearing conference with counsel (or with the parties, if unrepresented) will be scheduled without delay. The pre-hearing conference may be conducted by teleconference if counsel or the unrepresented parties live outside the Lower Mainland. The goals of the pre-hearing conference will be: to ensure an early hearing date; to arrange for the orderly filing and format of materials; and to make any ancillary orders required.

5. Every effort will be made to provide a hearing date not more than 3 weeks following the receipt of the letter requesting an expedited hearing.

COURT OF APPEAL
FOR BRITISH COLUMBIA

"The Honourable Chief Justice Finch"
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive titled *Protocol for Appeals Regarding the Inter-jurisdictional Abduction of Children, including international abductions engaging The 1980 Hague Convention on the Civil Aspects of International Child Abduction* (the *"Hague Convention*"), dated 21 July 2009.

British Columbia Court of Appeal

Practice Directive (Civil)

Title: Judicial Settlement Conferences

Issued: 27 June 2014

Effective: Immediately

Cite as: *Judicial Settlement Conferences* (Civil Practice Directive, 27 June 2014)

1. PURPOSE

[1] The purpose of a judicial settlement conference is to assist parties to resolve certain appeals at an early stage, to save the expense of an appeal, and to expedite the final resolution of the dispute.

2. HOW DO I APPLY FOR A SETTLEMENT CONFERENCE?

A. File Form A and Form B at the Court Registry (forms are below)

[2] A settlement conference is available to parties involved in all civil appeals in one of two ways: a judge or a division may refer the parties to the settlement conference program or the parties may apply to participate in the process.

[3] Regardless of whether a party is referred to a settlement conference or wishes to apply themselves, they must file two forms with the Court of Appeal Registry:

a) **Form A:** A “Joint Request for Settlement Conference” form, signed by all parties to the appeal; and,

b) **Form B:** A consent order, also signed by all parties to the appeal.

[4] These forms may be found at the bottom of this practice directive. When Form B is filed, the timelines under the *Court of Appeal Act* and *Court of Appeal Rules* are suspended and not reinstated until the conclusion of the settlement conference or when one or more parties withdraws.

[5] A party may withdraw from a settlement conference at any time, at which time the conference shall terminate. If the parties do not resolve the dispute through the

settlement conference, the matter will proceed in accordance with the *Court of Appeal Act* and *Court of Appeal Rules.*

3. BEFORE THE SETTLEMENT CONFERENCE

[6] After Form A and Form B have been filed, the parties will receive an acknowledgement letter from the Court, asking for available dates for an initial teleconference with the participating judge.

[7] At the initial teleconference, the parties and the participating judge will establish the date of the settlement conference and determine the relevant materials to be exchanged at or before the settlement conference. The initial teleconference will take place within 10 days of the date of the acknowledgement. The settlement conference will typically occur within 30 days of the receipt of Form A and Form B.

[8] On occasion and depending on the nature of the case, the judge conducting the settlement conference may ask that expert witness(es) attend the settlement conference.

[9] The Court or a judge may reject the request on the basis that the matter is not suitable for a settlement conference. The types of cases that may be unsuitable for a settlement conference include those where the issues are too complex, the case raises a significant issue of law, or there are allegations of domestic violence or abuse.

4. AT THE SETTLEMENT CONFERENCE

A. Who Attends?

[10] In an appeal involving an individual appellant and an individual respondent (for example, a family matter), both parties will attend the settlement conference, together with their respective legal counsel.

[11] Where a party to an appeal is a corporation, a representative of the corporation will attend the settlement conference with counsel. The person attending the settlement conference on behalf of the corporation must have the authority to bind the corporation to the terms of the settlement agreement.

B. What if I am Self-Represented?

[12] Where one or more of the parties who has consented to a settlement conference is self-represented and the judge conducting the settlement conference is of the opinion that the matter is suitable for settlement conference, the judge conducting the settlement conference may suggest or request the assistance of *pro bono* legal counsel for the self-represented party during the settlement conference process.

C. What Happens at the Settlement Conference?

[13] A judge of the Court of Appeal will conduct the settlement conference. At the outset, the parties must agree the settlement conference, and the fact that the parties participated in the settlement conference, will remain confidential, and are without prejudice to the parties' legal positions on the appeal.
[14] The settlement conference process is meant to be as flexible as possible and is not governed by any procedural rules. The parties, together with the judge conducting the settlement conference, are free to determine the manner in which the settlement conference proceeds.

[15] During the settlement conference, the judge may conduct a meeting with legal counsel representing the parties, without the parties present, to discuss the process to be followed during the settlement conference. The settlement conference judge may also conduct private meetings or caucuses with the individual parties and their legal counsel, except in cases where all parties are self-represented.

D. Is the Settlement Conference Confidential?

[16] The substance of all communications by the parties during the settlement conference process are statements made off the record, are confidential and shall not be disclosed in the appeal or in any other proceedings. The judge who conducts the settlement conference will not sit on the division presiding at the appeal and on any subsequent pre-hearing chambers proceedings. The fact a settlement conference has occurred will not be disclosed to the judges hearing the appeal.

[17] The judge who conducts the settlement conference acts as a mediator performing a judicial function. The parties agree that they will not call the judge as a witness in any proceeding relating to the subject matter of the appeal or to the settlement conference. The settlement conference judge maintains his or her judicial capacity and its accompanying immunity and cannot be compelled to testify in later court proceedings, should they arise.

[18] No record of the settlement conference will be filed in the Registry file. Records of the settlement conference process will be maintained by the Pre-Hearing Judicial Settlement Conference Officer, who is the Legal Counsel to the Court of Appeal, in a location separate and apart from the Court of Appeal Registry and its files. Information about the settlement conference will not be maintained in the Court of Appeal's electronic information system and will not be available to other judges of the Court.

5. AFTER THE SETTLEMENT CONFERENCE

[19] If the parties are successful in resolving the case through the settlement conference, the parties or their legal counsel will jointly draft an agreement which will be signed by all the parties. If an order is required, the parties must also agree to the form of order to be sought. In that event, the parties will apply to a division of

judges in the Court of Appeal for an order in those terms. Otherwise, the parties will file a Notice of Abandonment of the appeal.
[20] If the parties do not resolve the dispute through the settlement conference, the matter will proceed in accordance with the *Court of Appeal Act* and *Court of Appeal Rules*. If an appeal is "allowed" by consent, it is not an expression of opinion by the Court on the correctness or otherwise of the Reasons for Judgment in the Court or Tribunal appealed from.

_____
The Honourable Chief Justice Bauman
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive titled *Judicial Settlement Conferences,* dated 19 September 2011, which replaced the Practice Directive titled *Judicial Settlement Conferences,* dated 12 December 2005.

COURT OF APPEAL
FOR BRITISH COLUMBIA

Form A

(Joint Request for Settlement Conference)

Court of Appeal File No._____
Supreme Court File No. _____

COURT OF APPEAL

BETWEEN:

Appellant/Respondent
(Plaintiff)

AND:

Appellant/Respondent
(Defendant)

JOINT REQUEST FOR SETTLEMENT CONFERENCE

We, the undersigned, jointly request a pre-hearing judicial settlement conference in order to attempt to conclude the present litigation by way of settlement agreement.

We will jointly prepare and file a copy of all records requested by the Justice conducting the settlement conference within the time frame established at the initial teleconference.

This joint request is an application to the Settlement Conference Judge for an order suspending the applicable time limits set out in the Court of Appeal Act and Rules.

We promise to respect the confidential nature of all matters discussed throughout the pre-hearing judicial settlement conference and subject to their willingness and availability, the parties hereby request the following Justice(s) to conduct the settlement conference: *(insert up to 3 name(s) of justices)*

Date:_____

COURT OF APPEAL
FOR BRITISH COLUMBIA

(Name and address of appellant's law firm or of appellant if self-represented)	*(Name of counsel/appellant if self-represented)* *(Name of appellant(s) being represented)*
(Name and address of respondent's law firm or of respondent if self-represented)	*(Name of counsel/respondent if self-represented)* *(Name of respondent(s) being represented)*

COURT OF APPEAL
FOR BRITISH COLUMBIA

Form B

(Settlement Conference Consent Order)

Court of Appeal File No. _____

COURT OF APPEAL

BETWEEN:

Appellant/Respondent
(Plaintiff)

AND:

Appellant/Respondent
(Defendant)

CONSENT ORDER

[*Insert date of the order*]

WHEREAS:

(a) all parties have consented to this order, and
(b) no person involved is under any legal disability

IT IS ORDERED that the time limits for filing any document or taking any step in the Court of Appeal are suspended until further order.

APPROVED AS TO FORM:

_____
Counsel for the Appellant /
Appellant in person

_____
Counsel for the Respondent /
Respondent in person

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil)

Title: Order Made When Extension of Time Refused

Issued: 19 September 2011

Effective: Immediately

Cite as: *Order Made When Extension of Time Refused* (Civil Practice Directive, 19 September 2011)

When an application to extend the time to file an appeal record, transcript, appeal book or appellant's factum has been refused by a justice in chambers, the order shall include a direction that the appeal is dismissed as abandoned pursuant to s. 10(2)(e) of the *Court of Appeal Act*. If there is a reason why the appeal should not be dismissed as abandoned, counsel should raise the issue at the hearing.
The order should also indicate any disposition as to costs, either as made by the justice or as otherwise permitted by law.

"The Honourable Chief Justice Finch"
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive titled *Order Made Which Extension of Time Refused,* dated 8 September 2010.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Note (Civil & Criminal)

Title: Preferred Filing Registry

Issued: 19 September 2011

Effective: Immediately

Cite as: *Preferred Filing Registry* (Civil & Criminal Practice Note, 19 September 2011)

The B.C. Court of Appeal sits regularly in Vancouver, monthly in Victoria, and occasionally in Kamloops, Kelowna and Prince George.

Vancouver is the central registry for the Court of Appeal. The scheduling and review of material takes place in Vancouver and all of the files and books are located in Vancouver.

For the hearing of appeals and chambers matters, the material is sent from Vancouver to the registry where the matter will be heard. For hearings and chambers applications set to be heard in Vancouver, and for related written submissions, the Court requires that all relevant materials be filed in Vancouver, if possible. This will avoid delays in the materials being transferred from outside registries to the Vancouver Registry.

The cooperation of counsel in this regard is appreciated.

"Jennifer L. Jordan"
Registrar of the Court of Appeal of British Columbia

History:

Replaces the Notice to the Profession titled variously *Hearings in Victoria* and *Preferred Filing Registry*, dated 3 December 2007.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil)

Title: Publication Bans and Sealing Orders

Issued: 4 June 2018

Effective: 11 June 2018

Cite as: *Publication Bans and Sealing Orders* (Civil Practice Directive, 4 June 2018)

The Court is often not apprised of the existence of civil and family publication bans ordered in the court or tribunal below. Accordingly, at the time a notice of appeal or notice of application for leave to appeal is filed, parties must advise the Registrar in writing of the existence and nature of any publication bans in place.

If a party wishes to seek an order sealing material, they must immediately apply to a justice in chambers upon filing that material. Parties should not assume that a sealing order made in a court or tribunal below will continue to apply in the Court of Appeal.

_____

The Honourable Chief Justice Bauman
for the Court of Appeal for British Columbia

History:

This is a new practice directive.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil & Criminal)

Title: Submission of Electronic Factums and Statements

Issued: 22 April 2019

Effective: 02 July 2019

Cite as: *Submission of Electronic Factums and Statements* (Civil & Criminal Practice Directive, 02 July 2019)

1. This Practice Directive sets out the procedures to be followed by parties delivering electronic factums (including reply factums) and statements to the Court. In cases of demonstrated hardship, the Registrar may exclude a self-represented litigant from these requirements.

2. Since June 2014, parties have been delivering their factums and statements to the Court through the use of external media, such as DVD, memory stick or CD-ROM. These were filed at the same time as the paper versions of the parties' factums.

3. To reduce the cost of this process, the Court will now receive factums and statements via email to appealrecords@courts.gov.bc.ca and will no longer receive them on external media. At the time the factum or statement is filed in paper, the parties must present a copy of the email transmitting their factum electronically. If this is not done, the registry will reject the filing of the paper factum.

4. Judges must be able to copy and paste from an electronic factum or statement. As such, the electronic factum or statement must be submitted in optical character recognized (OCR) portable document format (PDF) or saved as a PDF from which text can be copied and pasted. Scanned factums or statements without OCR will be rejected, as will those which are not PDF.

5. The format of the electronic factum or statement shall be in one complete file, include the coversheet, index, any appendices and the content required by civil Form 10 - Appellant's Factum, Form 10 - Respondent's Factum and Form 11 – Appellant's Reply Factum or criminal Form 6 - Factum. The electronic factum or

statement shall be a true copy of the paper factum, excluding the handwritten signature. As stated in *Citation of Authorities* (Civil & Criminal Practice Directive, 30 May 2013), the Court welcomes optional hyperlinks to authorities in electronic versions of factums.

6. Use the following file names when submitting your materials via email:

CA12345_factum_appellant
CA12345_factum_respondent
CA12345_factum_appellant_reply
CA12345_factum_cross-appellant
CA12345_factum_cross-respondent
CA12345_factum_intervenor
CA12345_statement_appellant
CA12345_statement_respondent
CA12345_statement_appellant_reply
CA12345_factum_appellant_amended
CA12345_factum_respondent_amended
CA12345_factum_appellant_supplementary
CA12345_factum_respondent_supplementary
CA12345_factum_intervenor_supplementary
CA12345_further_submissions_appellant
CA12345_further_submissions_respondent
CA12345_further_submissions_intervenor

Examples: CA12345_factum_appellant.pdf
CA12345_factum_respondent.pdf
CA12345_factum_appellant_reply.pdf

_____

The Honourable Chief Justice Bauman
for the Court of Appeal of British Columbia

History:

Replaces *Submission of Electronic Factums and Statements* (Civil & Criminal Practice Directive, 27 June 2014) which replaced *Filing of Electronic Factums and Statements* (Civil & Criminal Practice Directive, 19 September 2011), which replaced the civil and criminal Practice Directives titled *Filing of Electronic Factums,* both dated 12 December 2005 and both amended 5 May 2008.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil & Criminal)

Title: Supplementary Arguments

Issued: 19 September 2011

Effective: Immediately

Cite as: *Supplementary Arguments* (Civil & Criminal Practice Directive, 19 September 2011)

After an appeal has been argued and judgment is reserved, the Court will not receive any further unsolicited material without the consent of all counsel. If there is no consent, an application may be made by writing a letter to the Registrar, requesting that the further material be received by the division which heard the appeal. Opposing counsel may respond to the request, also in writing addressed to the Registrar, within three days of the request being made. The matter will be referred to the division which heard the appeal, for consideration.

"The Honourable Chief Justice Finch"
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive titled *Supplementary Arguments,* dated 12 December 2005.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal

Practice Directive (Civil)

Title: Transcripts of Proceedings

Issued: 24 May 2019

Effective: 24 May 2019

Cite as: *Transcripts of Proceedings* (Civil Practice Directive, 24 May 2019)

Pursuant to s. 16 of the *Court of Appeal Act* and Rule 20 of the *Court of Appeal Rules,* parties are required to obtain and file a transcript of all oral testimony on an appeal. The transcript may be limited in size by consent or settled by a justice or the registrar: Rules 20(3), (5), 26.1(2).

The *Act* and *Rules* do not contemplate the filing of transcripts other than oral testimony, such as opening and closing addresses. Parties seeking to file transcripts other than oral testimony must do so only in circumstances where the issues on an appeal require it.

Where there is disagreement between parties on whether such a transcript is required, the transcript may be either settled by a Justice or the Registrar.

Transcripts must be prepared by an official reporter and comply with the requirements set out in the *B.C. Court Transcription Manual.*

_____

The Honourable Chief Justice Bauman
for the Court of Appeal for British Columbia

History:

Replaces the civil Practice Directive titled *Transcript Extracts* dated 19 September 2011 which replaced the civil Practice Directive titled *Joint Appeal Books and Transcript Extracts* dated 6 December 2007.

COURT OF APPEAL
FOR BRITISH COLUMBIA

British Columbia Court of Appeal
Practice Directive (Civil & Criminal)

Title: Use of the Facsimile in the Court of Appeal

Issued: 19 September 2011

Effective: Immediately

Cite as: *Use of Facsimile in the Court of Appeal* (Civil & Criminal Practice Directive, 19 September 2011)

Documents to be Filed

The Court of Appeal registry will accept for filing any facsimile copy of a Court of Appeal document, except for documents requiring binding and multiple copies (such as appeal books and transcripts; factums; books of authorities). For lengthy documents which may or may not be bound (such as motion books and memorandum of argument), they will be accepted if they do not exceed 20 pages in length. Any document in excess of 20 pages will be accepted only if prior permission has been obtained from the registrar. The Court, however, may refuse to accept a facsimile copy as an original document. In such cases, the original document must be available for production to the Court.

It is understood that the facsimile machine is to be used for filing of documents only. The registry will not become a message service for lawyers. Requests for copies of documents will not be filled by sending copies by facsimile. The facsimile is to be used to assist parties in filing documents where there is a time factor involved.

Filing Fees

On any document where a filing fee is required - i.e. Notice of Appeal, Notice of Motion, Certificate of Readiness - any document filed by facsimile will be filed on the implied undertaking that the fee will be sent immediately to the registry. If the fee is not paid within one week of the filing, or before an appearance (in the case of a notice of motion), the document will be rejected.

The registry will not be responsible for invoicing past fees due. If fees are not paid, no further documents will be accepted from the law firm or individual.

If more than one copy is required for filing, (i.e. a Notice of Motion before the Court) the staff will photocopy the document and charge the sender for photocopying fees at $1.00/page.

Proof of Filing

Documents will be accepted for filing by facsimile only when sent to the Court of Appeal facsimile number (604) 660-1951.

On receipt of a document, the Court of Appeal staff will process it as if it had been received over the counter. The document will be date-stamped, given a Court of Appeal number and entered in the index (for Notices of Appeal), entered in the diary for an appearance in chambers and otherwise dealt with as a regular filing.

Registry hours are from 9:00 a.m. to 4:00 p.m. Documents received after business hours will be deemed to be received on the following day. In deciding the date of receipt, the registry staff will be guided by the transmission time appearing on the face of the facsimile. All documents will be processed in the order that they are received.

The staff will return to the sender, by facsimile, a confirmation that the document has been received. This confirmation will consist of a cover sheet, stating the fees due (if any) and any comments about the filing and the first page of each document filed by facsimile, showing the date stamp, appeal file number etc.

There is no charge to file by facsimile for those outside of the Lower Mainland (the Greater Vancouver Regional District and the Fraser Valley Regional District). For all others, the charge is $16, plus $1.00 per page.

In order to avoid confusion, do not mail the original document. The original document should be kept by the sender and attached as minutes to the pages received back as confirmation. The sender must be able to produce the original, if called upon to do so.

Service of Documents

The registrar will accept as proof of service any acknowledgement of a document which has been forwarded by facsimile machine.

Any objection to service of a document which has been filed by facsimile is to be made to a judge in chambers.

Proviso

These guidelines are subject to judicial determination. Every accommodation will be made to see that this project is successful. However, if problems evolve in administering these guidelines, they may be changed or modified.

If any of this procedure is not followed, the registrar may refuse to transmit or accept Court of Appeal documents by facsimile.

"The Honourable Chief Justice Finch"
for the Court of Appeal of British Columbia

History:

Replaces the civil Practice Directive titled *Use of the Facsimile in the Court of Appeal*, dated 12 December 2005.