

NOTICE OF APPEAL FROM ASSOCIATE JUDGE, REGISTRAR OR SPECIAL REFEREE

Registry staff are trained to receive and issue court documents; they are not legally trained and cannot provide individuals with legal advice.

Supreme Court Civil Rule 23-6(8.1) to (11) and Supreme Court Family Rule 22-7(8.1) to (11) are the rules that deal with appeals from an associate judge, registrar or special referee. Copies of both of these rules are included in this package.

If you choose to appeal the decision of an associate judge, registrar or special referee you must file Civil Form 121 or Family Form F98 within 14 days after the order or decision was made.

The filing fee for a Notice of Appeal from Associate Judge, Registrar or Special Referee is \$80.00 as set out in Appendix C to both sets of rules.

This package contains the following;

- 1) Supreme Court Civil Rule 23-6 – Associate Judges, Registrars and Special Referees
- 2) Supreme Court Family Rule 22-7 – Associate Judges, Registrars and Special Referees
- 3) Supreme Court Civil Form 121 – Notice of Appeal from Associate Judge, Registrar or Special Referee
- 4) Supreme Court Family Form F98 – Notice of Appeal from Associate Judge, Registrar of Special Referee
- 5) Supreme Court Civil Form 121.1- Appellant's Statement of Argument
- 6) Supreme Court Family Form F98.1 – Appellant's Statement of Argument
- 7) Supreme Court Civil Form 70 – Notice of Interest
- 8) Supreme Court Family Form F77 – Notice of Interest
- 9) Supreme Court Civil Form 121.2 – Respondent's Statement of Argument
- 10) Supreme Court Family Form F98.2 – Respondent's Statement of Argument

Rule 23-6 — Associate Judges, Registrars and Special Referees

Powers of an associate judge

(1) Without limiting any other powers of an associate judge under these Supreme Court Civil Rules, an associate judge hearing an application has the powers of the court set out in Rules 8-5 (6) to (8) and 22-1 (2) to (8).

Associate judge as registrar

(2) An associate judge has the powers and jurisdiction of a registrar under these Supreme Court Civil Rules.

Repealed

(3) Repealed. [B.C. Reg. 149/2013, s. 7.]

Hearing record

(3.1) Before attending a registrar's hearing started by the filing of an appointment, the person taking out the appointment (in this subrule called the "applicant") must provide to the registry where the hearing is to take place, no later than 4 p.m. on the business day that is one full business day before the date set for the hearing, a hearing record as follows:

(a) the hearing record must be in a ring binder or in some other form of secure binding;

(b) the hearing record must contain, in consecutively numbered pages, or separated by tabs, the following documents in the following order:

(i) a title page bearing the style of proceeding and the names of the lawyers, if any, for the applicant and the persons served with the appointment (in this subrule called the "respondents");

(ii) an index;

(iii) a copy of the filed appointment and of every document that, under these rules, is required to be filed with that appointment;

- (iv) a copy of the affidavit of service of the appointment, which copy must not include the exhibits to the affidavit;
 - (v) if the appointment is to settle an order under Rule 13-1, a copy of the reasons for judgment on which the order is based, a transcript of the order made or a copy of the clerk's notes from the hearing;
 - (vi) if the appointment is to assess costs under Rule 14-1, a copy of the entered order for costs;
 - (vii) if the appointment has been filed under Rule 18-1, a copy of the entered order referring the matter to the registrar;
 - (viii) a copy of every filed affidavit and pleading, and of every other document, that is to be relied on at the hearing;
- (c) the hearing record may contain
- (i) a draft of the proposed report or certificate, and
 - (ii) a list of authorities;
- (d) the hearing record must not contain
- (i) written argument,
 - (ii) copies of authorities, including case law, legislation, legal articles or excerpts from text books, or
 - (iii) any other documents unless they are included with the consent of the applicant and the respondents.

Dealings with hearing record

(3.2) Rule 8-1 (17), (19) and (20) applies to a hearing record and, for that purpose, a reference in Rule 8-1 (17), (19) or (20) to "application record" is a reference to a hearing record and a reference to an "applicant" and an "application respondent" is a reference to the applicant and respondent to the registrar's hearing respectively and a reference to the "hearing of the application" is a reference to the hearing of the registrar's hearing.

Registrar's powers at registrar's hearing

(4) A registrar may, in respect of any registrar's hearing, whether before that registrar or any other registrar,

- (a) extend, shorten or limit the time for any step in the registrar's hearing,
- (b) exercise the powers that, under Rules 22-1 (2) and (3) and 23-5 (4), may be exercised by the court,
- (c) exercise the powers set out in Rule 18-1 (5), and
- (d) direct the parties to attend a pre-hearing conference.

Registrar's directions at pre-hearing conference

(5) Without limiting Rule 18-1 (5), a registrar conducting a pre-hearing conference may give directions for the conduct of any registrar's hearing, whether or not that registrar's hearing is before the registrar conducting the pre-hearing conference, including, without limitation, directions respecting the following:

- (a) the production of documents;
- (b) oral examinations for discovery;
- (c) service of notices to admit;
- (d) service of experts' reports;
- (e) service of witness lists;
- (f) any other matter that may assist in the just and efficient determination of the issues.

Reference by associate judge to judge

(6) If a matter appears to an associate judge to be proper for the decision of a judge, the associate judge may refer it to a judge, and the judge may either dispose of the matter or refer it back to the associate judge with directions.

Reference by registrar to judge or associate judge

(7) If a matter appears to a registrar to be proper for the decision of a judge or associate judge, the registrar may refer it to a judge or associate judge, and the judge or associate judge may either dispose of the matter or refer it back to the registrar with directions.

Repealed

(8) Repealed. [B.C. Reg. 104/2019, s. 4.]

Notice of appeal

(8.1) An appeal from an order of a decision of an associate judge, registrar or special referee must be brought by filing a notice of appeal in Form 121 within 14 days after the order or decision is made.

Service of notice of appeal and appellant's statement of argument

(8.2) A copy of the filed notice of appeal and of the appellant's statement of argument, in Form 121.1, must be served on the respondent(s) within 7 days after notice of appeal being filed.

Notice of interest

(8.3) A respondent who wishes to oppose the appeal must file a notice of interest in Form 70.

Service of notice of interest and respondent's statement of argument

(8.4) A copy of the notice of interest and of the respondent's statement of argument in the form set out in Form 121.2 must be delivered to the appellant within 14 days of the notice of appeal and appellant's statement of argument being served.

Transcript of reasons for judgment or decision

(8.5) If the order or decision from which the appeal is taken was pronounced orally rather than issued in writing, the appellant must order a transcript of the presider's reasons for judgment or decision within 14 days after the order or decision is issued.

Transcript of oral evidence

(8.6) If the appeal is taken from an order or decision following a hearing in which oral evidence is taken, in addition to a transcript of the reasons for judgment or decision, the appellant must order a transcript of the oral evidence within 14 days after the order or decision is issued.

Date and time of hearing of appeal

(8.7) If the hearing of an appeal will require more than 2 hours, the date and time of the hearing must be fixed by Supreme Court Scheduling, and if the hearing of the appeal will require 2 hours or less, it may be set on the chambers list on a date not before the expiry of the time for delivery of the respondent's notice of interest and statement of argument.

Appeal record

(8.8) The appellant must provide to the registry where the hearing of the appeal is to take place, no earlier than 9 a.m. and no later than 4 p.m. on the business day that is one full business day before the date set for the hearing, an appeal record as follows:

- (a) the appeal record must be in a ring binder or in some other form of secure binding;
- (b) the appeal record must contain
 - (i) a title page,
 - (ii) an index,
 - (iii) a copy of the notice of appeal,
 - (iv) a copy of the order of the associate judge or decision of the registrar or special referee that is subject to the appeal,
 - (v) a copy of the written reasons for judgment of the associate judge, or reasons for decision of the registrar or special referee, or, if the reasons were given orally, a transcript of the reasons,
 - (vi) a copy of the notice of application and application response, and for registrars' appeals, a copy of the appointment,
 - (vii) copies of any affidavits that were before the associate judge, registrar or special referee that will be relied on for the appeal,
 - (viii) a transcript of any oral evidence heard by the associate judge, registrar or special referee to be relied on for the appeal,
 - (ix) the appellant's statement of argument, not to exceed 10 pages, and

(x)the respondent's statement of argument, not to exceed 10 pages.

Appeal record to be returned

(8.9) Unless the court otherwise orders, the appellant must retrieve the appeal record at the conclusion of the hearing or, if the appeal is adjourned to a date later than the following business day, after the hearing is adjourned.

Abridgement or modification of timelines and documents required on appeal

(8.10) If the circumstances of an appeal require, the timelines and document filing requirements may be abridged, extended or modified by order under Rule 22-4 (2).

Repealed

(9)-(10) Repealed. [B.C. Reg. 104/2019, s. 4.]

Appeal not to act as stay

(11) An appeal from the decision of an associate judge or registrar is not a stay of proceeding unless so ordered by the court or the associate judge.

Rule 22-7 — Associate Judges, Registrars and Special Referees

Powers of an associate judges

(1) Without limiting any other powers of an associate judge under these Supreme Court Family Rules, an associate judge hearing an application has the powers of the court set out in Rules 10-3 (2) to (8) and 10-9 (6) to (8).

Associate judge as registrar

(2) An associate judge has the powers and jurisdiction of a registrar under these Supreme Court Family Rules.

Powers of an associate judge in estates

(3) An associate judge has the powers of the court to dispose of all non-contentious business in the administration of estates.

Hearing record

(3.1) Before attending a registrar's hearing started by the filing of an appointment, the person taking out the appointment (in this subrule called the "applicant") must provide to the registry where the hearing is to take place, no later than 4 p.m. on the business day that is one full business day before the date set for the hearing, a hearing record as follows:

(a) the hearing record must be in a ring binder or in some other form of secure binding;

(b) the hearing record must contain, in consecutively numbered pages, or separated by tabs, the following documents in the following order:

(i) a title page bearing the style of proceeding and the names of the lawyers, if any, for the applicant and

the persons served with the appointment (in this subrule called the "respondents");

(ii) an index;

(iii) a copy of the filed appointment and of every document that, under these rules, is required to be filed with that appointment;

(iv) A copy of the affidavit of service of the appointment, which copy must not include the exhibits to the affidavit;

(v) if the appointment is to settle an order under Rule 15-1, a copy of the reasons for judgment on which the order is based, a transcript of the order made or a copy of the clerk's notes from the hearing;

(vi) if the appointment is to assess costs under Rule 16-1, a copy of the entered order for costs;

(vii) if the appointment has been filed under Rule 18-1, a copy of the entered order referring the matter to the registrar;

(viii) a copy of every filed affidavit and pleading, and of every other document, that is to be relied on at the hearing;

(c) the hearing record may contain

(i) a draft of the proposed report or certificate, and

(ii) a list of authorities;

(d) the hearing record must not contain

(i) written argument,

(ii) copies of authorities, including case law, legislation, legal articles or excerpts from text books, or

(iii) any other documents unless they are included with the consent of the applicant and the respondents.

Dealings with hearing record

(3.2) Rule 10-6 (15), (17) and (18) applies to a hearing record and, for that purpose, a reference in Rule 10-6 (15), (17) or (18) to "application

record" is a reference to a hearing record and a reference to an "applicant" and an "application respondent" is a reference to the applicant and respondent to the registrar's hearing respectively and a reference to the "hearing of the application" is a reference to the hearing of the registrar's hearing.

Registrar's powers at registrar's hearing

- (4) A registrar may, in respect of any registrar's hearing, whether before that registrar or any other registrar,
- (a) extend, shorten or limit the time for any step in the registrar's hearing,
 - (b) exercise the powers that, under Rule 10-3 (2) and (3) or 22-6 (4), may be exercised by the court,
 - (c) exercise the powers set out in Rule 18-1 (5), and
 - (d) direct the parties to attend a pre-hearing conference.

Registrar's directions at pre-hearing conference

- (5) Without limiting Rule 18-1 (5), a registrar conducting a pre-hearing conference may give directions for the conduct of any registrar's hearing, whether or not that registrar's hearing is before the registrar conducting the pre-hearing conference, including, without limitation, directions respecting the following:
- (a) the production of documents;
 - (b) oral examinations for discovery;
 - (c) service of notices to admit;
 - (d) service of experts' reports;
 - (e) any other matter that may assist in the just and efficient determination of the issues.

Reference by associate judge to judge

- (6) If a matter appears to an associate judge to be proper for the decision of a judge, the associate judge may refer it to a judge, and the judge may either dispose of the matter or refer it back to the associate judge with directions.

Reference by registrar to judge or associate judge

(7) If a matter appears to a registrar to be proper for the decision of a judge or associate judge, the registrar may refer it to a judge or associate judge, and the judge or associate judge may either dispose of the matter or refer it back to the registrar with directions.

Repealed

(8) Repealed. [B.C. Reg. 105/2019, s. 2.]

Notice of appeal

(8.1) An appeal from an order or a decision of an associate judge, registrar or special referee must be brought by filing a notice of appeal in Form F98 within 14 days after the order or decision is made.

Service of notice of appeal and appellant's statement of argument

(8.2) A copy of the filed notice of appeal and of the appellant's statement of argument in Form F98.1 must be served on the respondent(s) within 7 days after the notice of appeal being filed.

Notice of interest

(8.3) A respondent who wishes to oppose the appeal must file a notice of interest in Form F77.

Service of notice of interest and respondent's statement of argument

(8.4) A copy of the notice of interest and of the respondent's statement of argument in the form set out in Form F98.2 must be delivered to the appellant within 14 days of after the notice of appeal and appellant's statement of argument being served.

Transcript of reasons for judgment or decision

(8.5) If the order or decision from which the appeal is taken was pronounced orally rather than issued in writing, the appellant must order a transcript of the presider's reasons for judgment or decision within 14 days after the order or decision is issued.

Transcript of oral evidence

(8.6) If the appeal is taken from an order or decision following a hearing in which oral evidence is taken, in addition to a transcript of the reasons

for judgment or decision, the appellant must order a transcript of the oral evidence within 14 days after the order or decision is issued.

Date and time of hearing of appeal

(8.7) If the hearing of an appeal will require more than 2 hours, the date and time of the hearing must be fixed by Supreme Court Scheduling, and if the hearing of the appeal will require 2 hours or less, it may be set on the chambers list on a date not before the expiry of the time for delivery of the respondent's notice of interest and statement of argument.

Appeal record

(8.8) The appellant must provide to the registry where the hearing of the appeal is to take place, no earlier than 9 a.m. and no later than 4 p.m. on the business day that is one full business day before the date set for the hearing, an appeal record as follows:

- (a) the appeal record must be in a ring binder or in some other form of secure binding;
- (b) the appeal record must contain
 - (i) a title page,
 - (ii) an index,
 - (iii) a copy of the notice of appeal,
 - (iv) a copy of the order of the associate judge or decision of the registrar or special referee that is the subject of the appeal,
 - (v) a copy of the written reasons for judgment of the associate judge, or reasons for decision of the registrar or special referee, or, if the reasons were given orally, a transcript of the reasons,
 - (vi) a copy of the notice of application and application response, and for registrars' appeals, a copy of the appointment,
 - (vii) copies of any affidavits that were before the associate judge, registrar or special referee that will be relied on for the appeal,

- (viii) a transcript of any oral evidence heard by the associate judge, registrar or special referee to be relied on for the appeal,
- (ix) the appellant's statement of argument, not to exceed 10 pages, and
- (x) the respondent's statement of argument, not to exceed 10 pages.

Appeal record to be returned

(8.9) Unless the court otherwise orders, the appellant must retrieve the appeal record at the conclusion of the hearing or, if the appeal is adjourned to a date later than the following business day, after the hearing is adjourned.

Abridgement or modification of timelines and documents required on appeal

(8.10) If the circumstances of an appeal require, the timelines and document filing requirements may be abridged, extended or modified by order under Rule 21-2 (2).

Repealed

(9)-(10) Repealed. [B.C. Reg. 105/2019, s. 2.]

Appeal not to act as stay

(11) An appeal from the decision of an associate judge or registrar is not a stay of proceeding unless so ordered by the court or the associate judge.

Form 121

No.
..... Registry

In the Supreme Court of British Columbia

Between:

Plaintiff/Petitioner(s)

and:

Defendant/Respondent(s)

NOTICE OF APPEAL FROM ASSOCIATE JUDGE, REGISTRAR OR SPECIAL REFEREE

WHEREAS on ,
[dd/mmm/yyyy] [name of associate judge, registrar or special referee]

made the following decision order:
[state concisely the decision or order]

.....
.....;

TAKE NOTICE thatappeal(s) from that decision order on
[party(ies)]

the following grounds:
[set out concisely the grounds of appeal]

.....
.....
.....;

This appeal will be heard at on at the courthouse
[time of day] [dd/mmm/yyyy]

at by the presiding judge.

The appellant(s) estimate(s) that the hearing of the appeal will take
[time estimate]

Date:

.....
Signature of
 appellant lawyer for appellant(s)
.....
[type or print name]

Court File No.:
Court Registry:

In the Supreme Court of British Columbia

Claimant:

Respondent:

NOTICE OF APPEAL FROM ASSOCIATE JUDGE, REGISTRAR OR SPECIAL REFEREE

WHEREAS on,
[dd/mmm/yyyy] [name of associate judge, registrar or special referee]

made the following decision order:
[state concisely the decision or order]

.....
.....;

TAKE NOTICE that appeal(s) from that decision order on the
[party(ies)]

following grounds:
.....
.....
[set out concisely the grounds of appeal]

This appeal will be heard at on at the courthouse at
[time of day] [dd/mmm/yyyy]

..... by the presiding judge.

The appellant(s) estimate(s) that the hearing of the appeal will take
[time estimate]

Date:*[dd/mmm/yyyy]*.....

.....
Signature of
 appellant lawyer for appellant(s)

.....
[type or print name]

Form 121.1

No.
..... Registry

In the Supreme Court of British Columbia

Between:

Appellant(s)

and:

Respondent(s)

APPELLANT'S STATEMENT OF ARGUMENT

[Not to exceed 10 pages]

Part 1: STATEMENT OF FACTS

The facts of this case are as follows:

[Using numbered paragraphs, set out a concise statement of the material facts giving rise to the appellant's statement of argument.]

- 1.
- 2.

Part 2: ISSUES ON APPEAL

The appellant agrees with the order appealed from except as follows:

[Using paragraphs numbered sequentially from Part 1 above, set out a concise statement of the legal bases from the decision or order which give rise to the appellant's appeal.]

- 3.
- 4.

Part 3: STANDARD OF REVIEW

[Using paragraphs numbered sequentially from Part 2 above, this part must set out the standard of review that the

appellant says governs the appeal.]

5.

Part 4: ARGUMENT

The decision or order appealed from is opposed because:

[Using paragraphs numbered sequentially from Part 3 above, set out a concise statement of the appellant's argument in opposition to the decision or order.]

6.

7.

Part 5: ORDER SOUGHT

[This part must set out the order sought by the appellant.]

Date:

.....

Signature of

filing person(s) lawyer for filing person(s)

.....

[type of print name]

In the Supreme Court of British Columbia

Appellant:

Respondent:

APPELLANT'S STATEMENT OF ARGUMENT
[Not to exceed 10 pages]

Part 1: STATEMENT OF FACTS

The facts of this case are as follows:

[Using numbered paragraphs, set out a concise statement of the material facts giving rise to the appellants statement of argument.]

- 1.
- 2.

Part 2: ISSUES ON APPEAL

The appellant agrees with the order appealed from except as follows:

[Using paragraphs numbered sequentially from Part 1 above, set out a concise statement of the legal basis from the decision or order which give rise to the appellant's appeal.]

- 3.
- 4.

Part 3: STANDARD OF REVIEW

[Using paragraphs numbered sequentially from Part 2 above, this part must set out the standard of review which the appellant says governs the appeal.]

- 5.

Part 4: ARGUMENT

The decision or order appealed from is opposed because:

[Using paragraphs numbered sequentially from Part 3 above, set out a concise statement of the appellant's argument in opposition to the decision or order.]

6.

7.

Part 5: ORDER SOUGHT

[This part must set out the order sought by the appellant.]

Date:

.....

Signature of

filing person(s) lawyer for filing person(s)

.....

[type of print name]

Form 70

No.
..... Registry

In the Supreme Court of British Columbia

Between:

Plaintiff/Petitioner(s)

and:

Defendant/Respondent(s)

NOTICE OF INTEREST

TAKE NOTICE that I have an interest in this proceeding.

Name:

Address for service: *[Set out the street address of the address for service. One or both of a fax number and e-mail address may be given as additional addresses for service.]*

.....
.....
.....
.....

Fax number address (if any):

E-mail address for service (if any):

Date:

Signature of

filing person(s) lawyer for filing person(s)

.....

[type of print name]

Form F77

Court File No.:
Court Registry:

In the Supreme Court of British Columbia

Claimant:

Respondent:

NOTICE OF INTEREST

TAKE NOTICE that I have an interest in this family law case.

Name:

Address for service: *[Set out the street address of the address for service. One or both of a fax number and e-mail address may be given as additional addresses for service.]*

.....
.....
.....
.....

Fax number address (if any):

E-mail address for service (if any):

Date:

Signature of
 filing person(s) lawyer for filing person(s)

.....
[type of print name]

In the Supreme Court of British Columbia

Between:

Appellant(s)

and:

Respondent(s)

RESPONDENT’S STATEMENT OF ARGUMENT

[Not to exceed 10 pages]

Part 1: STATEMENT OF FACTS

The respondent’s position on the appellant’s statement of facts is as follows:

[Using numbered paragraphs, set out a concise statement of the opposed relevant material facts in the appellant’s statement of argument and a concise statement of any other relevant facts to be considered.]

- 1.
- 2.

Part 2: ISSUES ON APPEAL

The respondent’s position on the appellant’s statement of issues on appeal is as follows:

[Using paragraphs numbered sequentially from Part 1 above, set out a concise statement of the opposed legal bases in the decision or order.]

- 3.
- 4.

Part 3: STANDARD OF REVIEW

[Using paragraphs numbered sequentially from Part 2 above, this part must set out the standard of review which the

respondent says governs the appeal.]

5.

Part 4: ARGUMENT

The appellant's argument is opposed because:

[Using paragraphs numbered sequentially from Part 3 above, set out a concise statement of the respondent's argument in opposition to the decision or order sought by the appellant.]

6.

7.

Part 5: ORDER SOUGHT

[This part must set out the order sought by the respondent.]

Date:

.....

Signature of

filing person(s) lawyer for filing person(s)

.....

[type of print name]

In the Supreme Court of British Columbia

Appellant:

Respondent:

RESPONDENT'S STATEMENT OF ARGUMENT

[Not to exceed 10 pages]

Part 1: STATEMENT OF FACTS

The respondent's position on the appellant's statement of fact is as follows:

[Using numbered paragraphs, set out a concise statement of the opposed material facts in the appellant's statement of argument and a concise statement of any other relevant facts to be considered.]

- 1.
- 2.

Part 2: ISSUES ON APPEAL

The respondent's position on the appellant's statement of issues on appeal is as follows:

[Using paragraphs numbered sequentially from Part 1 above, set out a concise statement of the opposed legal basis in the decision or order.]

- 3.
- 4.

Part 3: STANDARD OF REVIEW

[Using paragraphs numbered sequentially from Part 2 above, this part must set out the standard of review that the respondent says governs the appeal.]

5.

Part 4: ARGUMENT

The appellant's argument is opposed because:

[Using paragraphs numbered sequentially from Part 3 above, set out a concise statement of the respondent's argument in opposition to the decision or order sought by the appellant.]

6.

7.

Part 5: ORDER SOUGHT

[This part must set out the order sought by the respondent]

Date:

.....
Signature of

filing person(s) lawyer for filing person(s)

.....
[type of print name]