

**COURT OF APPEAL OF ALBERTA
AGREEMENT AS TO CONTENTS OF APPEAL BOOK - CHECK/RETURN FORM**

This checklist return form provides an itemized summary of the most common problems when filing documents in the Court of Appeal. However, this form does not include each requirement of the Alberta Rules of Court and Practice Directions. Accordingly, you should rely on the appropriate authority when preparing a document for filing in the Court of Appeal.

- A. General Format of Document:**
Refer to the General Format - Check/Return Form for formal requirements of all documents.
- B. Copies Required:**
The Registry will keep the original agreement as to contents of appeal book.
- C. Serve within 15 Days (ARC 515(1)):**
Within 15 days after Notice of Appeal is filed, the appellant shall serve on all parties affected by the appeal a proposed agreement as to contents of the appeal book.

PARTICULARS OF AGREEMENT/ORDER AS TO CONTENTS OF APPEAL BOOK:

- D. Signatures of Counsel/Parties (ARC 5.1):**
The agreement must be signed by all parties or their solicitor. The relationship to the appeal of the person signing (solicitor for appellant or solicitor for respondent, whichever applies) must be indicated. The name of the person signing the document must be legibly printed directly beneath the signature.
Note: Rules 515(2) & (3) provide as follows:
 - (2) On receipt of the proposed agreement each party shall signify his approval of the proposed agreement or shall specify which part or parts of the proposed agreement he approves and which he disapproves and his reasons therefor, to the appellant.
 - (3) If the parties are unable to agree on the contents of the appeal book, a judge of the court on notice shall, by order, fix the contents.
- E. Agreement Deemed to be Accepted/Must be Filed Forthwith (ARC 515(4), (4.1) & (5)):**
If a party does not respond to the proposed agreement as to contents of appeal book within 15 days after it is served, it shall be deemed to have been accepted and the party serving the document shall thereon endorse the agreement to the effect that service thereof was made and no response was received within the 15 days. The agreement after it is made or deemed to have been made must be filed forthwith. This endorsement shall be printed with the document in the appeal book.

- F. **Written order or undertaking for preparation of appeal books must be filed (ARC 515(4.2)):**

Within 10 days after the agreement as to the contents of an appeal book is made or deemed to have been made, or the contents fixed, the appellant must file either:

 - (i) a copy of the written order given to the office of the transcript management services, or to a commercial supplier, for the preparation and printing of the appeal books, or
 - (ii) a written undertaking signed by the solicitor of record for the appellant to promptly prepare and file the appeal book.

- G. **Contents of the Agreement (ARC 530 & Part B. CPD):**
 - (i) Must list all documents agreed upon to be included in the appeal book in accordance with Rule 530 and the Consolidated Practice Directions (CPD) - Part B, including the agreement as to contents of appeal book, certificate of preparer, the clerk's certificate (if applicable), and the lawyer's certificate (if applicable), etc.,
 - (ii) must exclude all matters not truly necessary to decide the appeal, but may provide that certain documents or transcripts are to be considered part of the record before the Court of Appeal without reproducing them in the appeal book (ARC 530(14)), and
 - (iii) must not be set up as a table of contents for an appeal book, nor be separated into specific parts as an appeal book is, as that may cause confusion when the appeal book is prepared. The agreement should contain far less detail.

- H. **Only Materials Needed for Disposition must be Included (ARC 515(6)):**

It is the duty of all parties on an appeal, so far as possible, to ensure that only the material needed for the disposition of the appeal is included in the appeal book and to eliminate evidence, exhibits, and other material unlikely to be needed.

- I. **Appeal Books Must be Prepared Promptly and Filed and Served Forthwith (ARC 530(15)(a) & (b)):**

Appeal books must:

 - (i) be prepared promptly and filed and served forthwith after they are prepared, and
 - (ii) in any event, unless otherwise ordered by a judge, be filed not later than 12 weeks from the date on which the agreement as to contents was filed or fixed, or the appeal will be struck by the Registrar.

Note: An appeal that has not been restored within 6 months from the date the appeal was struck is deemed to be abandoned (ARC 530(18)).

- J. **Matter will be moved to the General Appeal List (ARC 515.1(1)):**

The Registrar will enter a case on the General Appeal List whenever the first of the following events occurs (See Rule 515.1 for further details):

- (i) 3 months have elapsed since the notice of appeal was filed and no agreement as to contents or order fixing contents has been filed;
- (ii) 6 months have elapsed since the notice of appeal was filed;
- (iii) the appeal books have been filed; or
- (iv) a supervising judge directs that the case be so entered.

Note: In Calgary the List Manager has directed the Registrar to enter all matters on the General Appeal List immediately upon the Notice of Appeal being filed.

Calgary Registry: (403) 297-2206
Edmonton Registry: (780) 422-2416

Form Revised: August 12th, 2005

Access this form on the Alberta Court's website at
<http://www.albertacourts.ab.ca/ca/publication/index.htm>