



Court of Appeal of Alberta

HOW TO PREPARE AND FILE A CIVIL NOTICE OF APPEAL

This guide provides general information only and does not provide legal advice. You may represent yourself in proceedings before the Court of Appeal; however because the process may be complex, you may wish to consider hiring a lawyer. You cannot have another person who is not a lawyer speak on your behalf, unless you have permission of the Court. In addition, as staff members are not lawyers, they cannot provide any legal advice. It is recommended that you consult with a lawyer of your choice about your rights and the remedies available to you.

A list of agencies is provided in item #6 of the Frequently Asked Questions and can be viewed at <http://www.albertacourts.ab.ca/go.aspx?tabid=280>

General information on appeals can be located on the Alberta Courts' Website at <http://www.albertacourts.ab.ca>.

1. What is the Alberta Court of Appeal and where is it located?

The Court of Appeal is Alberta’s highest court and sits in two locations, Edmonton and Calgary:

1A Sir Winston Churchill Square,
Edmonton, Alberta T5J 0R7
Telephone No. (780) 422-2416
Fax No. (780) 422-4127

2600, 450 - 1st Street S.W.,
Calgary, Alberta T2P 5H1
Telephone No. (403) 297-2206
Fax No. (403) 297-5294

Office hours are 8:15 a.m. to 4:30 p.m. Monday to Friday.

Note: As it takes considerable time to review and file documents please ensure that you take this into consideration when attending to file your documents, or when submitting them by facsimile or mail.

2. What kind of appeals does the Court of Appeal hear?

The Court of Appeal hears appeals from decisions of the Court of Queen’s Bench, Administrative Tribunals and Boards. The Court of Appeal does not re-try cases. Rather, the Court of Appeal reviews the record and argument to determine if errors of law or fact finding were made in a decision.

The Court of Appeal can dismiss the appeal (confirm the decision); allow the appeal and order a new trial/hearing; or allow the appeal and alter the previous decision.

3. Is there a time limit to file an appeal?

Yes, the time limit varies depending on the order granted and the statute, rule or regulation governing the order, see the Civil Notice of Appeal Check/Return Form for common examples <http://www.albertacourts.ab.ca/go.aspx?tabid=240>.

Any party who, for good reason, requires an extension of the time for filing the Notice of Appeal must convince a Court of Appeal Judge, on application, to extend the time.

4. Who can start an appeal?

Only parties to an action can appeal.

5. Who are the parties in an appeal?

The party who files the Notice of Appeal with the Court of Appeal is referred to as the “Appellant”. The party against whom an appeal is brought and who must respond to the Notice of Appeal is called the “Respondent”.

6. Does it cost anything to appeal?

Apart from any legal fees, the fee for filing a Civil Notice of Appeal in the Court of Appeal is \$600.00 payable by cash, debit, credit card or certified cheque or money order made payable to the “Minister of Finance.”

In addition, the appellant would be responsible for any costs associated with obtaining and filing the appeal books, which includes the transcript of the proceedings.

7. What documents are required to file an appeal?

To commence a civil appeal with the Court of Appeal, the following documents must be prepared and submitted for filing within the prescribed time limits:

1. Form N - Civil Notice of Appeal - an interactive form is available at <http://www.albertacourts.ab.ca/go.aspx?tabid=240>, and
2. A copy of the Judgment/Order being appealed.

Check/Return forms have been prepared to assist you with the preparation of documents for the Court of Appeal. You should review the applicable Check/Return forms prior to preparing the documents, specifically:

- ◆ Civil Notice of Appeal, and
- ◆ General Format

The above Check/Return forms can be viewed at <http://www.albertacourts.ab.ca/go.aspx?tabid=240>, or copies can be obtained at the Court of Appeal Registry. Please ensure that you have the latest version as Check/Return forms are updated regularly.

8. How many copies of the documents will I require?

You will be required to provide copies for the Court, the opposing party(ies) and yourself. The Court of Appeal Registry will keep:

- ◆ the original and two (2) copies of the Notice of Appeal, and

- ◆ one (1) copy of the Judgment/Order being appealed.

9. Where do I file my appeal?

Once all of the documents have been prepared, attend at the applicable Court of Appeal Registry (see addresses in question #1 above) to have the documents reviewed and filed. For matters which fall in jurisdictions:

- ◆ North of Red Deer, the Notice of Appeal must be filed in Edmonton, or
- ◆ In and south of Red Deer, the Notice of Appeal must be filed in Calgary.

10. How do I notify the Respondent (other party(ies)) of my appeal?

Once all of the documents are filed you are required to serve (deliver) a copy of each filed document on the opposing party(ies) within the required time limits. Refer to Part 3 (Service of Documents) in the Alberta Rules of Court for service requirements <http://www.qp.gov.ab.ca/documents/rules/02.CFM?type=html>

11. What are the Rules that govern appeals to the Court of Appeal?

Rules 501 to 543 of the Alberta Rules of Court and the Court of Appeal Consolidated Practice Directions govern appeals to the Court of Appeal. Both the Rules and Practice Directions set out all of the requirements for a civil appeal. If appealing an administrative tribunal or board decision, you must also refer to the specific statute or regulation governing the matter. You can access:

- ◆ The Alberta Rules of Court at <http://www.qp.gov.ab.ca/documents/rules/02.CFM?type=html>.
- ◆ The Court of Appeal Consolidated Practice Directions at <http://www.albertacourts.ab.ca/go.aspx?tabid=230>.
- ◆ The specific statute or regulation at <http://www.qp.gov.ab.ca/catalogue/index.cfm>.
- ◆ Hard copies of any of the above at the Law Library in the Court of Queen's Bench in either Calgary or Edmonton.

12. What documents are required for an appeal to proceed to hearing?

Once the Notice of Appeal is filed, the following documents must also be prepared in accordance with the Alberta Rules of Court and the Court of Appeal Consolidated Practice Directions in order for the matter to proceed to hearing:

- ◆ Agreement as to Contents (if required)
- ◆ Appeal Book
- ◆ Facta and Authorities (from each party)

See Appendix A attached for the Civil Appeal flowchart.

Note: Once the Notice of Appeal has been filed you must proceed to the next step in preparing your appeal for hearing. Please refer to Part 39 of the Alberta Rules of Court at <http://www.qp.gov.ab.ca/documents/rules/02.CFM?type=html> , or the Court of Appeal Consolidated Practice Directions at <http://www.albertacourts.ab.ca/go.aspx?tabid=230> for filing deadlines that may apply to your appeal. See the attached Civil Appeal flowchart

13. What happens at a Court of Appeal hearing?

An appeal is very different from a trial. Normally three judges sit on an appeal and most appeal hearings last only one and a half hours or less. There are no witnesses or juries. New evidence (that is, information not presented during the lower court proceeding) will not be considered by the Court of Appeal except in the rarest of circumstances and only upon permission being granted by the panel hearing the appeal.

Before the appeal hearing, the judges will already be familiar with the appeal. They will have reviewed the appeal book and the written arguments of the appellant and the respondent as set out in their facta.

To commence the hearing the Court Clerk calls court to order. The appellant first addresses the Court setting out his or her legal argument which is based on their factum. The respondent then does the same. The judges frequently ask questions as the case is presented. Unless otherwise ordered by the panel hearing the appeal at the hearing, the maximum time for oral argument (including reply) is 45 minutes per separately-represented party. The Court may give its decision orally the day the appeal is heard or it may reserve its decision and issue a written judgment at a later date.

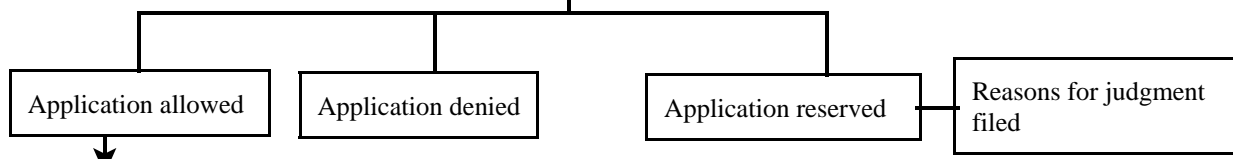
Civil Appeals to the Court of Appeal

Note: Where Leave to Appeal is required [ARC R. 505(3), 505(4), 580.92(1), Part J(3) of the *Court of Appeal Consolidated Practice Directions (CPD)*, or as otherwise legislated] proceed to Box 1- Leave Required.

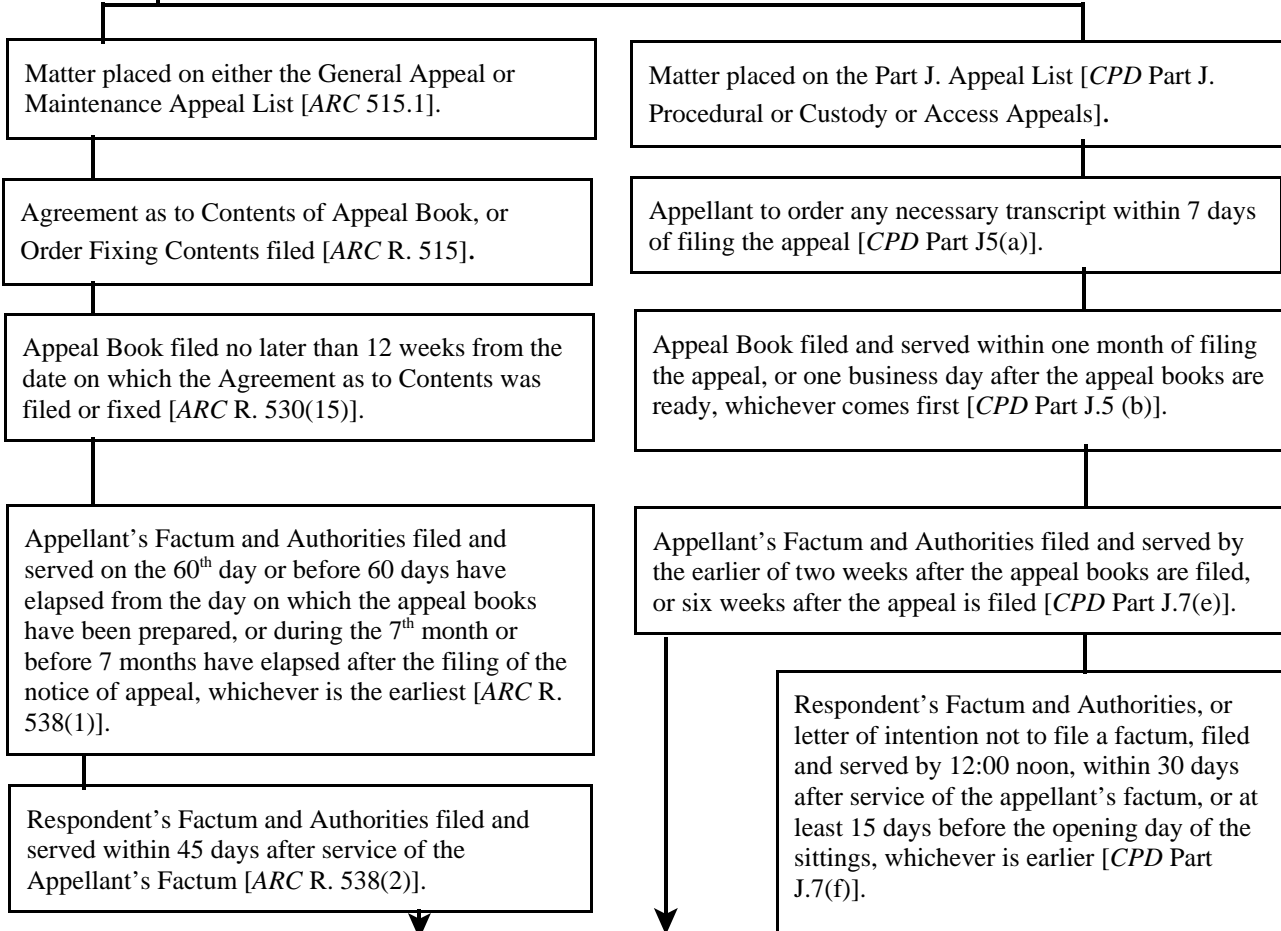
Where Leave to Appeal is not required, proceed to Box 2 - No Leave Required.

1. Leave Required: Applicant files and serves Notice of Motion and required supporting documents at least 21 business days prior to hearing. Respondent files and serves Memorandum and Affidavit (if applicable), or letter of intention not to file, at least 14 business days prior to hearing [Part F. Motions *CPD*].

Application for leave to appeal is heard by one justice in chambers



2. No Leave Required (or Leave Granted): Notice of Appeal filed, at the Court of Appeal in Form N, and served within the applicable appeal period [ARC R. 506(1), 577.3(b), 580.81(2), 580.92(3) or as otherwise ordered or legislated].



Appeal set for hearing before a panel of three justices

